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COMPILATION OF THE ENERGY SECURITY
ACT OF 1980, AND 1980 AMENDMENTS TO
THE DEFENSE PRODUCTION ACT OF 1950

COMMITTEE ON
BANKING, FINANCE AND URBAN AFFAIRS
HOUSE OF REPRESENTATIVES

96th Congress, Second Session



PART 1

SEPTEMBER 1980



Printed for the use of the
Committee on Banking, Finance and Urban Affairs

This report has not been officially adopted by the Committee on
Banking, Finance and Urban Affairs and may not therefore neces-
sarily reflect the views of its members.



[COMMITTEE PRINT 96-17]

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(II)

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July 3, 1980

Honorable Henry S. Reuss
Chairman
Committee on Banking, Finance
and Urban Affairs
Room 2129
Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed for your consideration is a compilation of the Energy Security Act and the 1980 amendments to the Defense Production Act of 1950, which deal with the subject of synthetic fuel policies and other matters. The compilation contains:

1. P. L. 96-294, the Energy Security Act.
2. Summary of the "Energy Security Act."
- *3. Joint Explanatory Statement of the Committee of Conference on S. 932.
4. Debate in the U. S. House of Representatives on the Conference Report (96-1104), June 26, 1980.
5. Debate in the U. S. Senate on the Conference Report (96-1104), June 19, 1980.
6. Defense Production Act of 1950, as amended.
7. Debate in the U. S. House of Representatives on H.R. 3930, June 26, 1979.
8. S. 932 (previously H.R. 3930) as passed by the U. S. House of Representatives, June 26, 1979.
9. Debate in the U. S. Senate on S. 932, November 5-8, 1979.
10. S. 932 as passed by the U. S. Senate, November 8, 1979.

(III)

1. PUBLIC LAW 96-294, THE "ENERGY SECURITY ACT"

PUBLIC LAW 96-294—JUNE 30, 1980

94 STAT. 611

Public Law 96-294
96th Congress

An Act

To extend the Defense Production Act of 1950, and for other purposes.

June 30, 1980

[S. 932]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Security Act".

Energy Security
Act.
42 USC 8701
note.

TITLE I—SYNTHETIC FUEL

TABLE OF CONTENTS

Sec. 100. Findings and purpose.

Part A—Development of Synthetic Fuel Under the Defense Production Act of 1950

- Sec. 101. Short title.
- Sec. 102. Declaration of policy.
- Sec. 103. Restriction on rationing.
- Sec. 104. Expansion of productive capacity and supply.
- Sec. 105. General provisions.
- Sec. 106. Reports.
- Sec. 107. Effective date.

Part B—United States Synthetic Fuels Corporation

SUBTITLE A—GENERAL PROVISIONS

- Sec. 111. Short title.
- Sec. 112. General definitions.
- Sec. 113. Effective date.

SUBTITLE B—ESTABLISHMENT OF CORPORATION

- Sec. 115. Establishment.
- Sec. 116. Board of Directors.
- Sec. 117. Officers and employees.
- Sec. 118. Conflicts of interest and financial disclosure.
- Sec. 119. Delegation.
- Sec. 120. Authorization of administrative expenses.
- Sec. 121. Public access to information.
- Sec. 122. Inspector General.
- Sec. 123. Advisory Committee.

SUBTITLE C—PRODUCTION GOAL OF THE CORPORATION

- Sec. 125. National synthetic fuel production goal.
- Sec. 126. Production strategy.
- Sec. 127. Solicitation of proposals.
- Sec. 128. Congressional disapproval procedure.
- Sec. 129. Congressional approval procedure.

SUBTITLE D—FINANCIAL ASSISTANCE

- Sec. 131. Authorization of financial assistance.
- Sec. 132. Loans made by the Corporation.
- Sec. 133. Loan guarantees made by the Corporation.
- Sec. 134. Price guarantees made by the Corporation.

SUBTITLE D—FINANCIAL ASSISTANCE—Continued

- Sec. 135. Purchase agreements made by the Corporation.
- Sec. 136. Joint ventures by the Corporation.
- Sec. 137. Control of assets.
- Sec. 138. Unlawful contracts.
- Sec. 139. Fees.
- Sec. 140. Disposition of securities.

SUBTITLE E—CORPORATION CONSTRUCTION PROJECTS

- Sec. 141. Corporation construction and contractor operation.
- Sec. 142. Limitations on Corporation construction projects.
- Sec. 143. Environmental, land use, and siting matters.
- Sec. 144. Project reports.
- Sec. 145. Financial records.

SUBTITLE F—CAPITALIZATION AND FINANCE

- Sec. 151. Obligations of the Corporation.
- Sec. 152. Limitations on total amount of obligational authority.
- Sec. 153. Budgetary treatment.
- Sec. 154. Receipts of the Corporation.
- Sec. 155. Tax status.

SUBTITLE G—UNLAWFUL ACTS, PENALTIES, AND SUITS AGAINST THE CORPORATION

- Sec. 161. False statements.
- Sec. 162. Forgery.
- Sec. 163. Misappropriation of funds and unauthorized activities.
- Sec. 164. Conspiracy.
- Sec. 165. Infringement on name.
- Sec. 166. Additional penalties.
- Sec. 167. Suits by the Attorney General.
- Sec. 168. Civil actions against the Corporation.

SUBTITLE H—GENERAL PROVISIONS

- Sec. 171. General powers.
- Sec. 172. Coordination with Federal entities.
- Sec. 173. Patents.
- Sec. 174. Small and disadvantaged business utilization.
- Sec. 175. Relationship to other laws.
- Sec. 176. Severability.
- Sec. 177. Fiscal year, audits and reports.
- Sec. 178. Water rights.
- Sec. 179. Western hemisphere projects.
- Sec. 180. Completion guarantee study.

SUBTITLE I—DISPOSAL OF ASSETS

- Sec. 181. Tangible assets.
- Sec. 182. Disposal of other assets.

SUBTITLE J—TERMINATION OF CORPORATION

- Sec. 191. Date of termination.
- Sec. 192. Termination of the Corporation's affairs.
- Sec. 193. Transfer of powers to Department of the Treasury.

SUBTITLE K—DEPARTMENT OF THE TREASURY

- Sec. 195. Authorizations.

TITLE II—BIOMASS ENERGY AND ALCOHOL FUELS

- Sec. 201. Short title.
- Sec. 202. Findings.
- Sec. 203. Definitions.
- Sec. 204. Funding for subtitles A and B.
- Sec. 205. Coordination with other authorities and programs.

TITLE II—BIOMASS ENERGY AND ALCOHOL FUELS—Continued**SUBTITLE A—GENERAL BIOMASS ENERGY DEVELOPMENT**

- Sec. 211. Biomass energy development plans.
- Sec. 212. Program responsibility and administration; effect on other programs.
- Sec. 213. Insured loans.
- Sec. 214. Loan guarantees.
- Sec. 215. Price guarantees.
- Sec. 216. Purchase agreements.
- Sec. 217. General requirements regarding financial assistance.
- Sec. 218. Reports.
- Sec. 219. Review; reorganization.
- Sec. 220. Establishment of Office of Alcohol Fuels in Department of Energy.
- Sec. 221. Termination.

SUBTITLE B—MUNICIPAL WASTE BIOMASS ENERGY

- Sec. 231. Municipal waste energy development plan.
- Sec. 232. Construction loans.
- Sec. 233. Guaranteed construction loans.
- Sec. 234. Price support loans and price guarantees.
- Sec. 235. General requirements regarding financial assistance.
- Sec. 236. Financial assistance program administration.
- Sec. 237. Commercialization demonstration program pursuant to Federal Nonnuclear Energy Research and Development Act of 1974.
- Sec. 238. Jurisdiction of Department of Energy and Environmental Protection Agency.
- Sec. 239. Establishment of Office of Energy From Municipal Waste in Department of Energy.
- Sec. 240. Termination.

SUBTITLE C—RURAL, AGRICULTURAL, AND FORESTRY BIOMASS ENERGY

- Sec. 251. Model demonstration biomass energy facilities.
- Sec. 252. Biomass energy research and demonstration projects.
- Sec. 253. Applied research regarding energy conservation and biomass energy production and use.
- Sec. 254. Forestry energy research.
- Sec. 255. Biomass energy educational and technical assistance.
- Sec. 256. Rural energy extension work.
- Sec. 257. Coordination of research and extension activities.
- Sec. 258. Lending for energy production and conservation projects by production credit associations, Federal land banks, and banks for cooperatives.
- Sec. 259. Agricultural conservation program; energy conservation cost sharing.
- Sec. 260. Production of commodities on set-aside acreage.
- Sec. 261. Utilization of National Forest System in wood energy development projects.
- Sec. 262. Forest Service leases and permits.

SUBTITLE D—MISCELLANEOUS BIOMASS PROVISIONS

- Sec. 271. Use of gasohol in Federal motor vehicles.
- Sec. 272. Motor vehicle alcohol usage study.
- Sec. 273. Natural gas priorities.
- Sec. 274. Standby authority for allocation of alcohol fuel.

TITLE III—ENERGY TARGETS

- Sec. 301. Preparation of energy targets.
- Sec. 302. Congressional consideration.
- Sec. 303. Energy target form.
- Sec. 304. General provisions regarding targets.

TITLE IV—RENEWABLE ENERGY INITIATIVES

- Sec. 401. Short title.
- Sec. 402. Purpose.
- Sec. 403. Definitions.
- Sec. 404. Coordinated dissemination of information on renewable energy resources and conservation.
- Sec. 405. Establishment of life-cycle energy costs for Federal buildings.

TITLE IV—RENEWABLE ENERGY INITIATIVES—Continued

- Sec. 406. Energy self-sufficiency initiatives.
- Sec. 407. Photovoltaic amendments.
- Sec. 408. Small-scale hydropower initiatives.
- Sec. 409. Authorizations of appropriations.

TITLE V—SOLAR ENERGY AND ENERGY CONSERVATION

- Sec. 501. Short title.

SUBTITLE A—SOLAR ENERGY AND ENERGY CONSERVATION BANK

- Sec. 502. Short title.
- Sec. 503. Purpose.
- Sec. 504. Definitions.

Part 1—Establishment and Operation of the Bank

- Sec. 505. Establishment of the Bank.
- Sec. 506. Board of Directors.
- Sec. 507. Officers and personnel.
- Sec. 508. Advisory committees.
- Sec. 509. Provision of financial assistance.
- Sec. 510. Establishing levels of financial assistance.
- Sec. 511. Maximum amounts of financial assistance for residential and commercial energy conserving improvements.
- Sec. 512. Maximum amounts of financial assistance for solar energy systems.
- Sec. 513. General conditions on financial assistance for loans.
- Sec. 514. Conditions on financial assistance for residential and commercial energy conserving improvements.
- Sec. 515. Conditions on financial assistance for solar energy systems.
- Sec. 516. Limitations on the provision of financial assistance for residential and commercial energy conserving improvements.
- Sec. 517. Limitations on the provision of financial assistance for solar energy systems.
- Sec. 518. Promotion.
- Sec. 519. Reports.
- Sec. 520. Rules and regulations.
- Sec. 521. Penalties.
- Sec. 522. Funding.

Part 2—Secondary Financing

- Sec. 531. Authority of solar energy and energy conservation bank to purchase loans and advances of credit for residential energy conserving improvements or solar energy systems.
- Sec. 532. Authority of solar energy and energy conservation bank to purchase mortgages secured by newly constructed homes with solar energy systems.
- Sec. 533. Repeal.
- Sec. 534. Secondary financing by Federal Home Loan Mortgage Corporation and by Federal National Mortgage Association.

SUBTITLE B—UTILITY PROGRAM

- Sec. 541. Definitions.
- Sec. 542. State list of suppliers and contractors—required warranty.
- Sec. 543. State list of financial institutions.
- Sec. 544. Treatment of utility costs.
- Sec. 545. Tax treatment.
- Sec. 546. Supply, installation, and financing by public utilities.
- Sec. 547. Authority to monitor and terminate supply, installation, and financing by utilities.
- Sec. 548. Unfair competitive practices.
- Sec. 549. Effective date.
- Sec. 550. Relationship to other laws.

SUBTITLE C—RESIDENTIAL ENERGY EFFICIENCY PROGRAM

- Sec. 551. Purpose.
- Sec. 552. Amendment to the National Energy Conservation Policy Act.
- Sec. 553. Amendment to the table of contents.

PUBLIC LAW 96-294—JUNE 30, 1980

94 STAT. 615

TITLE V—SOLAR ENERGY AND ENERGY CONSERVATION—Continued**SUBTITLE D—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS**

- Sec. 565. Amendment to the National Energy Conservation Policy Act.
 Sec. 566. Amendment to the table of contents.

SUBTITLE E—WEATHERIZATION PROGRAM

- Sec. 571. Limitations on administrative expenditures.
 Sec. 572. Expenditures for labor.
 Sec. 573. Selection of local agencies.
 Sec. 574. Standards and procedures for the weatherization program.
 Sec. 575. Limitations on expenditures.
 Sec. 576. Authorization of appropriations.
 Sec. 577. Technical amendments.

SUBTITLE F—ENERGY AUDITOR TRAINING AND CERTIFICATION

- Sec. 581. Purpose.
 Sec. 582. Definitions.
 Sec. 583. Grants.
 Sec. 584. Authorization of appropriations.

SUBTITLE G—INDUSTRIAL ENERGY CONSERVATION

- Sec. 591. Authorization of appropriations.

SUBTITLE H—COORDINATION OF FEDERAL ENERGY CONSERVATION FACTORS AND DATA

- Sec. 595. Consensus on factors and data for energy conservation standards.
 Sec. 596. Use of factors and data.
 Sec. 597. Report.

TITLE VI—GEOTHERMAL ENERGY

- Sec. 601. Short title.
 Sec. 602. Findings.

SUBTITLE A

- Sec. 611. Loans for geothermal reservoir confirmation.
 Sec. 612. Loan size limitation.
 Sec. 613. Loan rate and repayment.
 Sec. 614. Program termination.
 Sec. 615. Regulations.
 Sec. 616. Authorizations.

SUBTITLE B

- Sec. 621. Reservoir insurance program study.
 Sec. 622. Establishment of program.

SUBTITLE C

- Sec. 631. Feasibility study loan program.

SUBTITLE D

- Sec. 641. Amendments to Geothermal Research, Development, and Demonstration Act.
 Sec. 642. Use of geothermal energy in Federal facilities.
 Sec. 643. Amendments to Federal Power Act and Public Utility Regulatory Policies Act.
 Sec. 644. Regulations.

TITLE VII—ACID PRECIPITATION PROGRAM AND CARBON DIOXIDE STUDY**SUBTITLE A—ACID PRECIPITATION**

- Sec. 701. Short title.
- Sec. 702. Statement of findings and purpose.
- Sec. 703. Interagency Task Force; comprehensive program.
- Sec. 704. Comprehensive research plan.
- Sec. 705. Implementation of comprehensive plan.
- Sec. 706. Authorization of appropriations.

SUBTITLE B—CARBON DIOXIDE

- Sec. 711. Study.
- Sec. 712. Authorization of appropriations.

TITLE VIII—STRATEGIC PETROLEUM RESERVE

- Sec. 801. President required to resume fill operations.
- Sec. 802. Use of crude oil from Elk Hills Reserve.
- Sec. 803. Suspension during emergency situations.
- Sec. 804. Naval petroleum reserves.
- Sec. 805. Allocation to Strategic Petroleum Reserve of lower tier crude oil; use of Federal royalty oil.

FINDINGS AND PURPOSE

42 USC 8701.

SEC. 100. (a) The Congress finds and declares that—

(1) the achievement of energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(2) dependence on foreign energy resources can be significantly reduced by the production from domestic resources of the equivalent of at least 500,000 barrels of crude oil per day of synthetic fuel by 1987 and of at least 2,000,000 barrels of crude oil per day of synthetic fuel by 1992;

(3) attainment of synthetic fuel production in the United States in a timely manner and in a manner consistent with the protection of the environment will require financial commitments beyond those expected to be forthcoming from nongovernmental capital sources and existing government incentives; and

(4) establishment of an independent Federal entity of limited duration which will provide additional financial assistance in conjunction with private sources of capital to assist the development of domestic nonnuclear energy resources for the production of synthetic fuel will facilitate the expeditious achievement of synthetic fuel production from domestic resources.

(b)(1) The purposes of this title, and the amendments made by this title, are to utilize to the fullest extent the constitutional powers of the Congress to improve the Nation's balance of payments, reduce the threat of economic disruption from oil supply interruptions and increase the Nation's security by reducing its dependence upon imported oil.

(2) Congress finds and declares that these purposes can be served by—

(A) demonstrating at the earliest feasible time the practicality of commercial production of synthetic fuel from domestic resources employing the widest diversity of feasible technologies;

(B) fostering the creation of commercial synthetic fuel production facilities of diverse types with the aggregate capability to produce from domestic resources in an environmentally accept-

able manner the equivalent of at least 500,000 barrels of crude oil per day by 1987 and of at least 2,000,000 barrels of crude oil per day by 1992;

(C) creating the United States Synthetic Fuels Corporation, a Federal entity of limited duration formed to provide financial assistance to undertake synthetic fuel projects;

(D) providing for financial assistance to encourage and assure the flow of capital funds to those sectors of the national economy which are important to the domestic production of synthetic fuel;

(E) encouraging private capital investment and activities in the development of domestic sources of synthetic fuel and to foster competition in the development of the Nation's synthetic fuel resources;

(F) encouraging and supplementing and not competing with or supplanting private capital investments in the development of domestic sources of synthetic fuel;

(G) fostering greater energy security and reducing the Nation's economic vulnerability to disruptions in imported energy supplies; and

(H) giving special consideration to the production of synthetic fuel which has national defense applications and expediting its initial development through the Defense Production Act of 1950.

50 USC app.
2061.

Part A—Development of Synthetic Fuel Under the Defense Production Act of 1950

Defense
Production Act
Amendments of
1980.

SHORT TITLE

SEC. 101. This part may be cited as the "Defense Production Act Amendments of 1980".

50 USC app. 2061
note.

DECLARATION OF POLICY

SEC. 102. The second sentence of section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended by striking out the period at the end thereof and inserting in lieu thereof "or to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which would adversely affect the national defense preparedness of the United States. In order to insure the national defense preparedness which is essential to national security, it is also necessary and appropriate to assure domestic energy supplies for national defense needs."

RESTRICTION ON RATIONING

SEC. 103. Title I of the Defense Production Act of 1950 (50 U.S.C. App. 2071 et seq.) is amended by adding at the end thereof the following:

"Sec. 105. Nothing in this Act shall be construed to authorize the President to institute, without the approval of the Congress, a program for the rationing of gasoline among classes of end-users.

50 USC app.
2075.

"Sec. 106. For purposes of this Act, 'energy' shall be designated as a 'strategic and critical material' after the date of the enactment of this section: *Provided*, That no provision of this Act shall, by virtue of such designation—

50 USC app.
2076.

"(1) grant any new direct or indirect authority to the President for the mandatory allocation or pricing of any fuel or feedstock

(including, but not limited to, crude oil, residual fuel oil, any refined petroleum product, natural gas, or coal) or electricity or any other form of energy; or

"(2) grant any new direct or indirect authority to the President to engage in the production of energy in any manner whatsoever (such as oil and gas exploration and development, or any energy facility construction), except as expressly provided in sections 305 and 306 for synthetic fuel production."

Post, pp. 619, 623.

EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

SEC. 104. (a)(1) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(a)) is amended by inserting "(1)" after "(a)" and by striking out "the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Commerce," and inserting in lieu thereof "the Department of Defense, the Department of Energy, the Department of Commerce,".

(2) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(a)) is amended by adding at the end thereof the following:

"(2) Except as provided in section 305 and section 306, no authority contained in sections 301, 302, or 303 may be used in any manner—

"(A) in the development, production, or distribution of synthetic fuel;

"(B) for any synthetic fuel project;

"(C) to assist any person for the purpose of providing goods or services to a synthetic fuel project; or

"(D) to provide any assistance to any person for the purchase of synthetic fuel."

50 USC app.
2091-2093.

Guarantees,
maximum
obligations.

(b) Section 301(e)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(1)) is amended—

(1) by striking out "Except with the approval of the Congress, the" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), the";

(2) by striking out "\$20,000,000" and inserting in lieu thereof "\$38,000,000"; and

(3) by adding at the end thereof the following:

"(B) Guarantees which exceed the amount specified in subparagraph (A) may be entered into under this section only if the Committees on Armed Services of the Senate and the House of Representatives have been notified in writing of such proposed obligation and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such committees and neither House of Congress has adopted, within such 60-day period, a resolution disapproving such obligation. For purposes of this subparagraph, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 60-day period."

Notification to
congressional
committees.

(c) The second sentence of section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended by striking out "\$25,000,000" and inserting in lieu thereof "\$48,000,000".

(d)(1) Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended by striking out "and metals" each place it appears therein and inserting in lieu thereof ", metals, and materials".

(2) Section 303(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(b)) is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1995".

(3) Section 303(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(g)) is amended—

(A) by striking out "and upon a certification" and all that follows through "other national emergency,"; and

(B) by striking out "such" after "of substitutes for".

(e) Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) is amended by adding at the end thereof the following new sections:

"Sec. 305. (a)(1)(A) Subject to subsection (k)(1), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act (other than sections 101(a), 101(b), 301, 302, 303, and 306), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

"(B) The President shall exercise the authority granted by this section—

"(i) in consultation with the Secretary of Energy;

"(ii) through the Department of Defense and any other Federal department or agency designated by the President; and

"(iii) consistent with an orderly transition to the separate authorities established pursuant to the United States Synthetic Fuels Corporation Act of 1980.

"(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

"(b)(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (c) and (d), shall—

"(i) contract for purchases of, or commitments to purchase, synthetic fuel for Government use for defense needs;

"(ii) subject to paragraph (3), issue guarantees in accordance with the provisions of section 301, except that the provisions of section 301(e)(1)(B) shall not apply with respect to such guarantees; and

"(iii) subject to paragraph (3), make loans in accordance with the provisions of section 302, except that the provisions of section 302(2) shall not apply with respect to such loans.

"(2)(A) Except as provided in subparagraph (B) assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

"(B) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

"(3) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 or section 302 in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

"(c)(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (b) may be made—

Synthetic fuel, development.

50 USC app. 2095.

50 USC app. 2061, 2071, 2091-2093, *post*, p. 623.

Post, p. 633.

Contracts.

Loan guarantees.

Proposed loan or guarantee, notification to Congress.

Post, p. 628.

50 USC app.
2166.

"(A) without regard to the limitations of existing law (other than the limitations contained in this Act) regarding the procurement of goods or services by the Government; and

"(B) subject to section 717(a), for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

"(2) Purchases or commitments to purchase under subsection (b) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

"(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

Competitive
bids.

"(d)(1) Except as provided in paragraph (2), any purchase of or commitment to purchase synthetic fuel under subsection (b) shall be made by solicitation of sealed competitive bids.

"(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may negotiate contracts for such purchases and commitments to purchase.

"(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

"(4)(A)(i) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (A)(ii), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

"(ii) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase or commitment to purchase of more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

Post, p. 628.

"(B) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

"(C) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract.

Review.

"(5) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose pursuant to the authorizations contained in sections 711(a)(2) and 711(a)(3), an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price.

Post, p. 632.

"(6) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

"(e) The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

"(f)(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

"(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (d)(5), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

"(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2) shall be sold in accordance with applicable Federal law.

"(g)(1) Any contract under this section including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

"(2) For the purpose of determining the maximum liability under any contract under paragraph (1)—

Contracts,
maximum
liability.

"(A) loans shall be valued at the initial face value of the loan;

"(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

"(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract; and

"(D) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, or purchase agreement shall be valued in accordance with the applicable preceding subparagraph.

"(3) If more than one form of assistance is provided under this section to any synthetic fuel project, then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

"(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

"(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

"(h) For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

"(i) All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40.

5 USC app.

"(j)(1) Nothing in this section shall—

"(A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;

"(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or

"(C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

"(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

"(k)(1) Subject to paragraph (2), the authority of the President to enter into any new contract or commitment under this section shall cease to be effective on the date on which the President determines that the United States Synthetic Fuels Corporation is established and fully operational consistent with the provisions of the United States Synthetic Fuels Corporation Act of 1980.

Post, p. 633.

"(2) Contracts entered into under this section before the date specified in paragraph (1) may be renewed and extended by the President after the date specified in paragraph (1) but only to the extent that Congress has specifically appropriated funds for such renewals and extensions.

"Sec. 306. (a)(1) At any time after the date of the enactment of this section, the President may, subject to paragraph (2), invoke the authorities provided under this section upon making all the following determinations and transmitting a report to the Congress regarding such determinations:

50 USC app.
2096.

"(A) a national energy supply shortage has resulted or is likely to result in a shortfall of petroleum supplies in the United States, and such shortage is expected to persist for a period of time sufficient to seriously threaten the adequacy of defense fuel supplies essential to direct defense and direct defense industrial base programs;

"(B) the continued adequacy of such supplies cannot be assured and requires expedited production of synthetic fuel to provide such defense fuel supplies;

"(C) the expedited production of synthetic fuel to provide such defense fuel supplies will not be accomplished in a timely manner by the United States Synthetic Fuels Corporation; and

"(D) the exercise of the authorities provided under subsection (c) is necessary to provide for the expedited production of synthetic fuel to provide such defense fuel supplies.

"(2)(A) Any transmittal under paragraph (1) shall contain a determination by the President regarding the extent of the anticipated shortage of petroleum supplies. If the President determines that such shortage is greater than 25 percent, the authorities invoked by the President under this section shall be effective on the date on which the report required under paragraph (1) is transmitted to the Congress.

"(B) If the President determines that such shortage is less than 25 percent, the transmittal under paragraph (1) shall be made in accordance with section 307 and the authorities under this section shall be effective only as provided under such section. For purposes of section 307, any determination to invoke authorities under this section, notice of which is transmitted to the Congress under this subsection, shall be considered to be a synthetic fuel action.

Post, p. 628.

"(3) No court shall have the authority to review any determination made by the President under this subsection.

"(b)(1)(A) Subject to the requirements of subsection (a), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act (other than sections 101(a), 101(b), 301, 302, 303, and 305), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

50 USC app.
2071, 2091-2093,
ante, p. 619.

"(B) The President shall exercise the authority granted by this section—

"(i) in consultation with the Secretary of Energy; and

"(ii) through the Department of Defense and any other Federal department or agency designated by the President.

"(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

"(c)(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (d) and (e), shall—

"(i) contract for purchases of or commitments to purchase synthetic fuel for Government use for defense needs;

50 USC app.
2091.

"(ii) subject to paragraph (4), issue guarantees in accordance with the provisions of section 301, except that the provisions of section 301(e)(1)(B) shall not apply with respect to such guarantees;

50 USC app.
2092.

"(iii) subject to paragraph (4), make loans in accordance with the provisions of section 302, except that the provisions of section 302(2) shall not apply with respect to such loans;

"(iv) have the authority to require fuel suppliers to provide synthetic fuel in any case in which the President deems it practicable and necessary to meet the national defense needs of the United States. Nothing in this paragraph shall be intended to provide authority for the President to require fuel suppliers to produce synthetic fuel if such suppliers are not already producing synthetic fuel or do not intend to produce synthetic fuel;

"(v) have the authority to install additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the Government, and to install Government-owned equipment in plants, factories, and other industrial facilities owned by private persons; and

"(vi) have the authority to undertake Government synthetic fuel projects in accordance with the provisions of paragraph (2).

"(B)(i) Except as provided in clause (ii), assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

"(ii) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

Synthetic fuel
projects,
Government
ownership.

"(2)(A) The Government, acting through the President, is authorized to own Government synthetic fuel projects. In any case in which the Government owns a Government synthetic fuel project, the Government shall contract for the construction and operation of such project.

"(B) The authority of the Government pursuant to subparagraph (A) to own and contract for the construction and operation of any Government synthetic fuel project shall include, among other things, the authority to—

"(i) subject to subparagraph (C), take delivery of synthetic fuel from such project; and

"(ii) transport and store and have processed and refined such synthetic fuel.

"(C) Any synthetic fuel which the Government takes delivery of from a Government synthetic fuel project shall be disposed of in accordance with subsection (g).

"(D) To the maximum extent feasible, the President shall utilize the private sector for the activities associated with this paragraph.

"(3)(A) Except as provided in subparagraph (B), any contract for the construction or operation of a Government synthetic fuel project shall be made by solicitation of sealed competitive bids.

"(B) In any case in which no such bids are submitted to the President or the President determines that no such bids have been submitted which are acceptable to the President, the President may negotiate contracts for such construction and operation.

"(4) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 or section 302 in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

50 USC app.
2091, 2092.

Post, p. 628.

"(5) Before the President may utilize any specific authority described under paragraph (1), the President shall transmit to the Congress a statement containing a certification that the determinations made by the President in the transmittal to the Congress under subsection (a)(1) are still valid at the time of the transmittal of such certification.

"(6)(A) No authority contained in paragraphs (1)(A)(i) through (1)(A)(iv) may be utilized by the President unless the use of such authority has been authorized by the Congress in an Act hereinafter enacted by the Congress.

"(B) The President may not utilize any authority under paragraph (1)(A)(v) or paragraph (1)(A)(vi) unless the proposed exercise of authority has been specifically authorized on a project-by-project basis in an Act hereinafter enacted by the Congress and funds have been specifically appropriated by the Congress for purposes of exercising such authority.

"(d)(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (c) may be made—

"(A) without regard to the limitations of existing law (other than those limitations contained in this Act) regarding the procurement of goods or services by the Government; and

"(B) subject to section 717(a), for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

50 USC app.
2166.

"(2) Purchases or commitments to purchase under subsection (c) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

"(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

"(e)(1) Except as provided in paragraph (2), any purchase or commitment to purchase synthetic fuel under subsection (c) shall be made by solicitation of sealed competitive bids.

"(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may

negotiate contracts for such purchases and commitments to purchase.

"(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

"(4)(A) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (B), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

"(B) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase of or commitment to purchase more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

"(5) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

"(6) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract.

"(7) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose, an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price.

"(8) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

"(f) The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

Post, p. 628.

"(g)(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

"(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (e)(7), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

"(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2), shall be sold in accordance with applicable Federal law.

"(h)(1) Any contract under this section, including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

"(2) For the purpose of determining the maximum liability under any contract under paragraph (1)—

"(A) loans shall be valued at the initial face value of the loan;

"(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

"(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract;

"(D) contracts for activities under subsection (c)(1)(A)(v) shall be valued at the initial face value of such contract;

"(E) Government synthetic fuel projects pursuant to subsection (c)(1)(A)(vi) shall be valued at the current estimated cost to the Government, as determined annually by the President; and

"(F) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, purchase agreement, contract for activities under subsection (c)(1)(A)(v), or Government synthetic fuel project pursuant to subsection (c)(1)(A)(vi) shall be valued in accordance with the applicable preceding subparagraph.

"(3) If more than one form of assistance is provided under this section to any synthetic fuel project then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

"(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

"(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

Contracts,
maximum
liability.

"(i) For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section, shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

Wages.

"(j) All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40.

5 USC app.

"(k)(1) Nothing in this section shall—

"(A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;

"(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or

"(C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

"(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

"(l) Renewals and extensions of contracts entered into under this section shall be made only to the extent that Congress has specifically appropriated funds for such renewals and extensions, unless the President certifies that the determinations under section 306(a)(1) remain in effect for purposes of the use of such authority.

"Synthetic fuel action."

50 USC app. 2097.

Transmittal to Congress.

"Sec. 307. (a) For purposes of this section, the term 'synthetic fuel action' means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

"(b) The President shall transmit any synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any synthetic fuel action is received by the appropriate officers of each House, such synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

"(c)(1) Except as provided in paragraph (2) and in subsection (e), if a synthetic fuel action is transmitted to both Houses of Congress, such synthetic fuel action shall take effect at the end of the first period of 30 calendar days of continuous session of the Congress after the date on which such synthetic fuel action is received by such Houses, unless

between the date on which such synthetic fuel action is received and the end of such 30 calendar day period, either House passes a resolution stating in substance that such House does not favor such action.

"(2) A synthetic fuel action described in paragraph (1) may take effect prior to the expiration of the 30-calendar-day period after the date on which such action is received, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such synthetic fuel action. Except as provided in subsection (e), in any such case, such synthetic fuel action shall take effect on the date on which such resolution is approved.

"(d) For purposes of subsection (c)—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period.

"(e) Under provisions contained in a synthetic fuel action, any provision of such synthetic fuel action may take effect on a date later than the date on which such synthetic fuel action otherwise would take effect, if such action is not disapproved, pursuant to the provisions of this section.

"(f) This section is enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

"(g)(1) For purposes of subsection (b), the term 'resolution' means a resolution of either House of the Congress described in paragraph (2) or paragraph (3).

"Resolution."

"(2) A resolution the matter after the resolving clause of which is as follows: 'That the _____ does not object to the synthetic fuel action numbered _____ received by the Congress on _____, 19____', the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

"(3) A resolution the matter after the resolving clause of which is as follows: 'That the _____ does not favor the synthetic fuel action numbered _____ received by the Congress on _____, 19____', the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

"(4) A resolution once introduced with respect to a synthetic fuel action shall immediately be referred to a committee (and all resolutions with respect to the same synthetic fuel action shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(5)(A) If the committee to which a resolution with respect to a synthetic fuel action has been referred has not reported it at the end of 20 calendar days after it was received by the House involved, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such synthetic fuel action which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same synthetic fuel action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same synthetic fuel action.

"(6)(A) When the committee has reported (or has been discharged from further consideration of) a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debates, time
limitation.

"(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to, except that it shall be in order—

"(i) to offer an amendment in the nature of a substitute, consisting of the text of the resolution described in paragraph (2) with respect to a synthetic fuel action, for a resolution described in paragraph (3) with respect to the same synthetic fuel action; or

"(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (3) with respect to a synthetic fuel action, for a resolution described in paragraph (2) with respect to the same such synthetic fuel action.

"(C) The amendments described in clauses (i) and (ii) of subparagraph (B) shall not be amendable and shall be debatable under the 5-minute rule in the House of Representatives by the offering of pro forma amendments.

"(7)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

Appeals.

"(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

"(8) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a synthetic fuel action, then a motion to recommit shall not be in order nor shall it be in order to consider in that House any other resolution with respect to the same synthetic fuel action.

"SEC. 308. (a) For purposes of this Act, the term 'Government synthetic fuel project' means a synthetic fuel project undertaken in accordance with the provisions of section 306(c).

"(b)(1)(A) For purposes of this Act, the term 'synthetic fuel' means any solid, liquid, or gas, or combination thereof, which can be used as a substitute for petroleum or natural gas (or any derivatives thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of domestic sources of—

"(i) coal, including lignite and peat;

"(ii) shale;

"(iii) tar sands, including those heavy oil resources where—

"(I) the cost and the technical and economic risks make extraction and processing of a heavy oil resource uneconomical under applicable pricing and tax policies; and

"(II) the costs and risks are comparable to those associated with shale, coal, and tar sand resources (other than heavy oil) qualifying for assistance under section 305 or section 306; and

"(iv) water, as a source of hydrogen only through electrolysis.

"(B) Such term includes mixtures of coal and combustible liquids, including petroleum.

"(C) Such term does not include solids, liquids, or gases, or combinations thereof, derived from biomass, which includes timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter.

"(2)(A) For purposes of this Act, the term 'synthetic fuel project' means any facility using an integrated process or processes at a specific geographic location in the United States for the purpose of commercial production of synthetic fuel. The project may include only—

"(i) the facility, including the equipment, plant, machinery, supplies, and other materials associated with the facility, which converts the domestic resource to synthetic fuel;

"(ii) the land and mineral rights required directly for use in connection with the facilities for the production of synthetic fuels;

"(iii) any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion;

"(I) which—

"(aa) is co-located with the conversion facility or is located in the immediate vicinity of the conversion facility; or

"(bb) if not co-located or located in the immediate vicinity, is incidental to the project (except in the event of a coal mine where no other reasonable source of coal is available to the project); and

"(II) which is necessary to the project; and

"(iv) any transportation facility, electric powerplant, electric transmission line or other facility—

"(I) which is for the exclusive use of the project;

"(II) which is incidental to the project; and

"Government synthetic fuel project."

50 USC app. 2098.

Ante, p. 623.

"Synthetic fuel."

Ante, pp. 619, 623.

"Synthetic fuel project."

"(III) which is necessary to the project, except that transportation facilities used to transport synthetic fuel away from the project shall be used exclusively to transport synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

"(B)(i) Such term may also include a project which will result in the replacement of a significant amount of oil and is—

"(I) used solely for the production of a mixture of coal and combustible liquids, including petroleum, for direct use as a fuel, but shall not include—

"(aa) any mineral right; or

"(bb) any facility or equipment for extraction of any mineral;

"(II) used solely for the commercial production of hydrogen from water through electrolysis; and

"(III) a magnetohydrodynamic topping cycle used solely for the commercial production of electricity.

"(ii) Such a synthetic fuel project using magnetohydrodynamic technology shall only be eligible for guarantees under section 305 or section 306.

Definitions.

"(C) For purposes of this paragraph—

"(i) the term 'exclusive' means for the sole use of the project, except that an incidental by-product might be used for other purposes;

"(ii) the term 'incidental' means a relatively small portion of the total project cost; and

"(iii) the term 'necessary' means an integrated part of the project taking into account considerations of economy and efficiency of operation.

"United States."
Ante, pp. 619,
623.

"(c) For purposes of section 305 and section 306, the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States."

GENERAL PROVISIONS

SEC. 105. (a) Section 711(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)) is amended—

(1) by inserting " , but excluding sections 305 and 306" after "payment of interest under subsection (b) of this section";

(2) by inserting "pursuant to this paragraph" after "Funds made available";

(3) by striking out "There" and inserting in lieu thereof "(1) Except as provided in paragraph (2), there"; and

(4) by adding at the end thereof the following new paragraphs:

Appropriation
authorization.

"(2)(A) There are hereby authorized to be appropriated without fiscal year limitation not to exceed \$3,000,000,000 to carry out the provisions of section 305 until the date on which the authority of the President under such section ceases to be effective in accordance with section 305(k)(1). Subject to subparagraphs (B) and (C), all such funds shall remain available until expended.

Ante, p. 619.

"(B) Such funds may be expended to carry out section 305 after such date only if such funds were obligated by the President before such date, or are required to be retained as a reserve against a contingent obligation incurred before such date.

"(C) Any sums appropriated pursuant to this paragraph which have not been expended or obligated pursuant to subparagraph (B) as of the date determined under section 305(k)(1) or are not required to be retained as a reserve against a contingent obligation as specified in subparagraph (B), shall be transferred to the Energy Security Reserve and made available to the Secretary of the Treasury for the United States Synthetic Fuels Corporation pursuant to section 195 of the United States Synthetic Fuels Corporation Act of 1980.

Ante, p. 619.

"(3) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of section 305(k)(2)."

Post, p. 682.

(b) The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "August 27, 1980" and inserting in lieu thereof "September 30, 1981".

(c) Section 701(d) of the Defense Production Act of 1950 (50 U.S.C. App. 2151(d)) is amended by striking out "Defense Production Act Amendments of 1955" and inserting in lieu thereof "Defense Production Act Amendments of 1980"

REPORTS

SEC. 106. Beginning one year after the effective date of this part, and annually thereafter, the President shall submit a report to the Congress on actions taken under sections 305 and 306 of the Defense Production Act of 1950.

50 USC app. 2096a.

EFFECTIVE DATE

Ante, pp. 619, 623.

SEC. 107. The amendments made by this part shall take effect on the date of the enactment of this part.

50 USC app. 2062 note.

Part B—United States Synthetic Fuels Corporation

SUBTITLE A—GENERAL PROVISIONS

United States Synthetic Fuels Corporation Act of 1980.

SHORT TITLE

SEC. 111. This part may be cited as the "United States Synthetic Fuels Corporation Act of 1980"

42 USC 8701 note.

GENERAL DEFINITIONS

SEC. 112. For purposes of this part:

42 USC 8702.

(1) The term "Board of Directors" means the Board of Directors of the Corporation, including the Chairman and the six other Directors.

(2) The term "Chairman" means the Chairman of the Board of Directors of the Corporation.

(3) The term "concern" means any—

(A) person;

(B) State or political subdivision or governmental entity thereof, or an Indian tribe or tribal organization;

(C) multi-State entity which possesses legal powers necessary to carry out activities under this part;

(D) foreign government or agency thereof when participating in joint ventures with any entity described in subparagraph (A) or (B); or

(E) combination of the aforementioned, which is engaged, or proposes to engage, in a synthetic fuel project pursuant to this part.

(4) The term "Corporation" means the United States Synthetic Fuels Corporation.

(5) The term "Corporation construction project" means a synthetic fuel project undertaken in accordance with the provisions of subtitle E.

(6) The term "Director" means a member of the Board of Directors, including the Chairman.

(7)(A) The term "financial assistance" means any of the following forms of financial assistance, or combinations thereof, as provided in subtitle D—

- (i) loans;
- (ii) loan guarantees;
- (iii) price guarantees;
- (iv) purchase agreements;
- (v) joint-ventures; and
- (vi) acquisition and lease back of a synthetic fuel project pursuant to section 137(c);

Post, p. 663.

(B) Such term shall not include any form of grant, except cost-sharing agreements pursuant to section 131(u).

Post, p. 654.

(8) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(9) The term "joint venture" means a synthetic fuel project module undertaken in accordance with the provisions of section 136.

Post, p. 658.

(10) The term "loan" means a loan, or commitment to loan, made under section 132;

(11) The term "loan guarantee" means a guarantee of, or commitment to guarantee, indebtedness, which is made under section 133.

Post, p. 660.

(12) The term "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose.

(13) The term "price guarantee" means a guarantee of, or commitment to guarantee, the price received or to be received by a concern from the sale of synthetic fuel. Such term includes only a guarantee, or commitment to guarantee, which is made under section 134.

Post, p. 661.

(14) The term "purchase agreement" means any contract to purchase synthetic fuel, any guarantee thereof, or a commitment thereof, which is made under section 135.

Post, p. 661.

(15) The term "qualified concern" means a concern which demonstrates to the satisfaction of the Board of Directors evidence of its capability directly or by contract to undertake and complete the design, construction, and operation of a proposed synthetic fuel project.

(16) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(17)(A) The term "synthetic fuel" means any solid, liquid, or gas, or combination thereof, which can be used as a substitute for

petroleum or natural gas (or any derivatives thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of domestic sources of—

- (i) coal, including lignite and peat;
- (ii) shale;
- (iii) tar sands, including those heavy oil resources where—
 - (I) the cost and the technical and economic risks make extraction and processing of a heavy oil resource uneconomical under applicable pricing and tax policies; and
 - (II) the costs and risks are comparable to those associated with shale, coal and tar sand resources (other than heavy oil) qualifying for financial assistance under this part; and
- (iv) water, as a source of hydrogen only through electrolysis.

(B) Such term includes mixtures of coal and combustible liquids, including petroleum.

(C) Such term does not include solids, liquids, or gases, or combinations thereof, derived from biomass, which includes timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter.

(18)(A) The term “synthetic fuel project” means any facility using an integrated process or processes at a specific geographic location in the United States for the purpose of commercial production of synthetic fuel. The project may include only—

- (i) the facility, including the equipment, plant, machinery, supplies, and other materials associated with the facility, which converts the domestic resource to synthetic fuel;
- (ii) the land and mineral rights required directly for use in connection with the facilities for the production of synthetic fuels;
- (iii) any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion;

(I) which—

(aa) is co-located with the conversion facility or is located in the immediate vicinity of the conversion facility; or

(bb) if not co-located or located in the immediate vicinity, is incidental to the project (except in the event of a coal mine where no other reasonable source of coal is available to the project); and

(II) which is necessary to the project; and

(iv) any transportation facility, electric powerplant, electric transmission line or other facility—

(I) which is for the exclusive use of the project;

(II) which is incidental to the project; and

(III) which is necessary to the project, except that transportation facilities used to transport synthetic fuel away from the project shall be used exclusively to transport synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

(B)(i) Such term may also include a project which will result in the replacement of a significant amount of oil and is—

(I) used solely for the production of a mixture of coal and combustible liquids, including petroleum, for direct use as a fuel, but shall not include—

(aa) any mineral right; or

(bb) any facility or equipment for extraction of any mineral;

(II) used solely for the commercial production of hydrogen from water through electrolysis; and

(III) a magnetohydrodynamic topping cycle used solely for the commercial production of electricity.

Post, pp. 660, 662.
Post, p. 665.

(ii) Such a synthetic fuel project using magnetohydrodynamic technology shall only be eligible for financial assistance pursuant to section 133 or section 136, but not both, and shall not be authorized for purposes of subtitle E.

(iii) Such a synthetic fuel project for commercial production of hydrogen from water shall not be eligible for financial assistance pursuant to section 136.

(C) For purposes of this paragraph—

(i) the term “exclusive” means for the sole use of the project, except that an incidental byproduct might be used for other purposes;

(ii) the term “incidental” means a relatively small portion of the total project cost; and

(iii) the term “necessary” means an integrated part of the project taking into account considerations of economy and efficiency of operation.

EFFECTIVE DATE

42 USC 8701
note.

SEC. 113. This part shall take effect on the date of the enactment of this part.

SUBTITLE B—ESTABLISHMENT OF CORPORATION

ESTABLISHMENT

United States
Synthetic Fuels
Corporation.
42 USC 8711.

SEC. 115. (a) There is hereby created the United States Synthetic Fuels Corporation.

(b) The principal office of the Corporation shall be located in the District of Columbia. The Corporation may establish offices elsewhere in the United States as determined by the Board of Directors of the Corporation. The Corporation is deemed to be a resident of the District of Columbia.

Post, p. 673.

(c) The general powers of the Corporation are those powers specified in section 171.

BOARD OF DIRECTORS

42 USC 8712.

SEC. 116. (a)(1) The powers of the Corporation shall be vested in the Board of Directors, except those functions, powers, and duties vested in the Chairman by or pursuant to this part.

Membership.

(2) The Board of Directors shall consist of a Chairman and six other Directors appointed by the President by and with the advice and consent of the Senate. Not more than four Directors shall be members of any one political party. The Chairman shall devote full working time to the affairs of the Corporation and shall hold no other salaried position.

Terms.

(b)(1) The Directors shall serve for seven-year terms. Of the Directors first appointed, the Chairman shall serve as Chairman for a seven-year term, one Director shall serve for a term of six years, one

shall serve for a term of five years, one shall serve for a term of four years, one shall serve for a term of three years, one shall serve for a term of two years, and one shall serve for a term of one year.

(2) Upon expiration of the initial term of each initial Director, each Director appointed thereafter shall serve for a term of seven years. Whenever a vacancy shall occur on the Board of Directors, the President shall appoint, by and with the advice and consent of the Senate, an individual to fill such vacancy for the remainder of the applicable term. Upon the expiration of a term, a Director may continue to serve for a maximum of one year or until a successor shall have been appointed and shall have taken office, whichever occurs first.

(3) Any Director may be removed from office by the President only for neglect of duty, or malfeasance in office. Removal.

(c) The President shall designate, at the time of appointment of a Director, whether such Director, other than the Chairman, will serve in either a full-time or part-time capacity. Directors serving in a part-time capacity may not hold any full-time salaried position in the Federal Government or in any State or local government. Directors serving in a full-time capacity shall hold no other salaried position.

(d) Before assuming office, each Director shall take an oath faithfully to discharge the duties thereof. All Directors shall be citizens of the United States. Oath.

(e) The Board of Directors shall meet at any time pursuant to the call of the Chairman and as may be provided by the bylaws of the Corporation, but not less than quarterly. A majority of the Board of Directors shall constitute a quorum, and any action by the Board of Directors shall be effected by majority vote of all members of the Board of Directors. The Board of Directors shall adopt, and may from time to time amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

(f)(1) All meetings of the Board of Directors held to conduct official business of the Corporation shall be open to public observation, and shall be preceded by reasonable public notice. Pursuant to such bylaws as it may establish, the Board of Directors may close a meeting if the meeting is likely to disclose— Open meetings.

(A) information which is likely to adversely affect financial or securities markets or institutions; Exceptions.

(B) information the premature disclosure of which would be likely to—

(i) lead to speculation in securities, commodities, minerals, or land; or

(ii) impede—

(I) the ability of the Corporation to establish procurement or synthetic fuel project selection criteria; or

(II) its ability to negotiate a contract for financial assistance; or

(C) matters or information exempted from public disclosure pursuant to paragraph (1), (2), (4), (5), or (6) of subsection (c) of section 552b, title 5 of the United States Code.

(2) The determination to close any meeting of the Board of Directors for any of the purposes specified in subparagraphs (A) through (C) of paragraph (1) shall be made in a meeting of the Board of Directors open to public observation preceded by reasonable notice. The Board of Directors shall prepare minutes of any meeting which is closed to the public and such minutes shall be made promptly available to the public, except for those portions thereof which, in the

judgment of the Board of Directors, may be withheld under the provisions of subparagraphs (A) through (C) of paragraph (1).

(g) The levels of compensation of the Board of Directors shall be fixed initially by the President and may be adjusted from time to time upon recommendation by the Board of Directors and concurrence of the President.

OFFICERS AND EMPLOYEES

42 USC 8713.

SEC. 117. (a) The Chairman shall be the chief executive officer of the Corporation, and shall be responsible for the management and direction of the Corporation.

(b) The Board of Directors shall—

(1) establish the offices and appoint the officers of the Corporation (including a General Counsel and Treasurer) and define their duties;

(2) fix the compensation of individual officer positions and categories of other employees of the Corporation taking into consideration the rates of compensation in effect under the Executive Schedule and the General Schedule prescribed by subchapters II and III of chapter 53 of title 5, United States Code for comparable positions or categories. If the Board of Directors determines that it is necessary to fix the compensation of any officer position or category of other positions at a rate or rates in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, the Board of Directors may transmit to the President its recommendations with respect to the rates of compensation it deems advisable for such positions and categories. Such recommendations shall become effective at the beginning of the first pay period which begins after the thirtieth day following the transmittal of such recommendations unless the President has specifically disapproved such recommendation and notified the Board of Directors to such effect; and

(3) provide a system of organization to fix responsibility and promote efficiency.

(c) Except as specifically provided herein, Directors, officers, and employees of the Corporation shall not be subject to any law of the United States relating to governmental employment.

(d) The Chairman shall appoint such employees as may be necessary for the transaction of the Corporation's business to, and may discharge such employees from, positions established in accordance with this section: *Provided, however,* That the Corporation shall not be authorized to employ more than three hundred individuals in full-time professional positions at any time: *And provided further,* That for purposes of the preceding limitation, individuals employed for Corporation construction projects under subtitle E shall not be counted.

(e) No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation, except as provided in section 116(a)(2).

Post, p. 665.

CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE

42 USC 8714.

2 USC 701 note.

SEC. 118. (a) The financial disclosure provisions of the Ethics in Government Act of 1978 (92 Stat. 1824; Public Law 95-521) applicable to individuals occupying positions compensated under the Executive Schedule shall apply to the Directors and officers of the Corporation

and to employees of the Corporation whose position in the schedule established by the Board of Directors pursuant to section 117(b)(2) is compensated at a rate equivalent to that payable for grade GS-16 or above of the General Schedule established by chapter 53 of title 5, United States Code. The financial disclosure provisions of the Ethics in Government Act of 1978 shall apply to the Corporation as if it were a Federal agency.

5 USC 5332 note.
44 FR 58678.
2 USC 701 note.

(b) Any provision of law governing post-Federal employment activities shall not apply to former Federal employees who may be employed by the Corporation while acting on behalf of the Corporation.

(c)(1) Except as permitted by paragraph (3), no Director shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to his or her knowledge, he or she, his or her spouse, minor child, partner, or an organization (other than the Corporation) in which he or she is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) Action by a Director contrary to the prohibition contained in paragraph (1) shall be cause for removal of such Director pursuant to section 116(b)(3), but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the Director or officer participated.

(3) The prohibition contained in paragraph (1) shall not apply if the Director first advises the Board of Directors of the nature of the particular matter in which he or she proposes to participate and makes full disclosure of such financial interest, and the Board of Directors determines by majority vote that the financial interest is too remote or too inconsequential to affect the integrity of such Director's services for the Corporation in that matter. The Director involved shall not participate in such determination.

(d) Section 207(a) of title 18, United States Code (and subsections (f), (h), and (j) of such section to the extent they relate to subsection (a)) shall apply to former Directors, officers, and employees of the Corporation as if they were former officers or employees of the executive branch of the United States Government. Such section shall apply to the Corporation as if it were an agency of the executive branch of the United States Government.

DELEGATION

Sec. 119. (a) The Board of Directors may, by resolution, delegate to the Chairman and the other Directors functions, powers, and duties assigned to the Corporation under this part other than those expressly vested in the Board of Directors pursuant to sections 116(f), 117(b), 118(c)(3), 126(a)(1)(D), 126(b), 127(c), (e), and (f), 131(a), (b), and (f), 132(a) and (d), 133(a) and (b), 134, 135(a), 136(a) and (b), 137(b) and (c), 141(a), 154, 171(a)(8) and (c), 173(a) and (b), 181(a) and (c), and 191(b). The Chairman may, only by written instrument, delegate such functions, powers, and duties as are assigned to the Chairman by or pursuant to the provisions of this part to such other full-time Directors, officers, or employees of the Corporation as the Chairman deems appropriate.

42 USC 8715.

Post, pp. 658, 660,
661, 662, 663,
665, 669, 673,
675, 680, 681.

(b)(1) Notwithstanding any other provision of law, the President and any other officer or employee of the United States shall not make any delegation to the Chairman, the Board of Directors, or the

Corporation of any power, function, or authority not expressly authorized by the provisions of this part, except where such delegation is pursuant to an authority in law which expressly makes reference to this section.

(2) Notwithstanding any other provision of law, the Reorganization Act of 1977 (5 U.S.C. 901 et seq.) shall not apply to authorize the transfer to the Corporation of any power, function, or authority.

AUTHORIZATION OF ADMINISTRATIVE EXPENSES

42 USC 8716.

SEC. 120. (a)(1)(A) The Corporation is authorized to expend during any fiscal year for—

(i) subject to paragraph (2), reasonable and necessary administrative expenses, not to exceed \$35,000,000; and

(ii) subject to paragraph (4), generic studies and specific reviews of individual proposals for financial assistance, not to exceed \$10,000,000.

(B) For purposes of section 122(e), and from the amount specified in subsection (a)(1)(A)(i), the Inspector General may expend not more than \$2,000,000 during any fiscal year for reasonable and necessary administrative expenses.

(2) For purposes of this section, administrative expenses shall include all ordinary and necessary expenses, including all compensation for personnel and consultants, expenses for computer usage, for space needs of the Corporation and similar expenses. For each fiscal year commencing after September 30, 1980, the \$35,000,000 limitation in subsection (a)(1)(A)(i) and the \$2,000,000 limitation in subsection (a)(1)(B) shall be increased as of October 1 each year by an amount equal to the percentage increase in the Gross National Product implicit price deflator, as published by the Department of Commerce or its successor, for the year then ended over the level so established for the year ending September 30, 1979.

(3) Administrative expenses include reimbursement to Directors for reasonable expenses which are incurred in connection with their service as Directors of the Corporation.

(4) Expenditures authorized under subsection (a)(1)(A)(ii) shall not be available—

(A) for administrative expenses;

(B) for the reimbursement of governmental agencies for the salaries of personnel of such agencies detailed to the Corporation;

(C) to exceed the personnel limits established pursuant to section 117(d); or

(D) for operating expenses.

(b) Funds authorized for administrative expenses shall not be available for the acquisition of real property or for expenses related to Corporation construction projects pursuant to subtitle E.

(c) The Corporation may make expenditures, without further appropriation, for reasonable and necessary administrative expenses not to exceed the limit provided in subsection (a) in any fiscal year and then only in accordance with a detailed statement of such expenditures which has been transmitted to the Congress, the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives in accordance with the provisions of section 153 along with the President's proposed budget for such fiscal year: *Provided*, That such expenditures for fiscal years 1980 and 1981 may be made without such prior statement. It is the intention of this section that the Corporation's

Post, p. 665.

Post, p. 669.

expenditures for administrative expenses shall reflect due consideration for economy and efficiency.

PUBLIC ACCESS TO INFORMATION

SEC. 121. (a) The Corporation shall make available to the public, upon request, any information regarding its organization, procedures, requirements, and activities: *Provided*, That the Corporation is authorized to withhold information which is exempted from disclosure pursuant to subsection (b) of section 552 of title 5, United States Code, and section 116(f) of this part as it pertains to minutes of meetings of the Board of Directors. 42 USC 8717.

(b) The Corporation, upon receipt of any request for information, shall determine promptly whether to comply with such request and shall promptly notify the person making the request of such determination. In the event of an adverse determination, and if requested by the person requesting the information, such determination shall be reviewed by the General Counsel of the Corporation.

(c) Section 1905 of title 18, United States Code, shall apply—
 (1) to Directors, officers, and employees of the Corporation as if they were officers or employees of the United States; and
 (2) to the Corporation as if it were a Federal agency.

INSPECTOR GENERAL

SEC. 122. (a)(1) In addition to the officers provided for in section 117(b)(1), there shall be in the Corporation an officer with the title of "Inspector General" who shall be appointed for a term of seven years by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report directly to, and be under the general supervision of, the Board of Directors, and shall not be under the control of, or subject to supervision by, any other officer of the Corporation. 42 USC 8718.

(2) Neither the Board of Directors nor any other officer or employee of the Corporation shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit, investigation, or inspection.

(3) There shall also be in the Corporation a Deputy Inspector General who shall be appointed for a term of seven years by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy Inspector General shall assist the Inspector General in carrying out his duties under this section and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General. Deputy Inspector General.

(4) The Inspector General or the Deputy Inspector General may be removed from office by the President only for neglect of duty, or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress. Removal.

(5) The Inspector General and the Deputy Inspector General shall be compensated at a rate fixed by the Board of Directors in accordance with section 117(b)(2), which rate for the Inspector General shall be not less than the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code, and for the Deputy Inspector General not less than the rate provided for level IV of such schedule under section 5315 of title 5, United States Code. Compensation. 44 FR 58678.

Duties.

(b)(1) It shall be the duty and responsibility of the Inspector General—

(A) to supervise, coordinate, and provide policy direction for auditing, investigative, and inspection activities relating to the promotion of economy and efficiency in the administration of, or the prevention or detection of fraud and abuse in, programs and operations of the Corporation;

(B) to determine the extent to which such programs and operations are consonant with the purposes of this title, and in compliance with the provisions of this part;

(C) to make recommendations for correcting deficiencies in, or improving, the programs and operations of the Corporation; and

(D) to keep the Board of Directors and the Congress fully and currently informed, by means of the reports required by subsections (c), (d), and (h), and otherwise, concerning problems, abuses, and deficiencies relating to the administration of programs authorized by this part, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(2) In carrying out his duties and responsibilities, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States in relation to the Corporation, with a view toward avoiding duplication and insuring effective coordination and cooperation.

(3) In carrying out his duties and responsibilities, the Inspector General shall report expeditiously to the Attorney General whenever he has reasonable grounds to believe there has been a violation of Federal criminal law.

Annual Reports.

(c) The Inspector General shall, not later than November 30 of each year, prepare an annual written report summarizing the activities of his office during the immediately preceding fiscal year. Each such report shall include—

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Corporation disclosed by such activities;

(2) a description of recommendations for corrective action with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1); and

(3) a summary of matters referred to law enforcement authorities and the extent to which prosecutions and convictions have resulted.

(d) The annual report of the Inspector General shall be furnished to the Board of Directors not later than November 30 of each year and shall be transmitted by the Board of Directors to the President, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives within thirty days after the receipt of the report, together with a report by the Board of Directors containing any comments it deems appropriate. The Board of Directors shall make copies of each annual report available to the public upon request and at a reasonable cost within sixty days after its transmittal to the Congress.

Public availability.

(e) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material availa-

ble to the Corporation which relate to programs and operations with respect to which the Inspector General has responsibilities under this section;

(2) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental agency or unit thereof;

(3) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(4) to have direct and prompt access to the Board of Directors when necessary for any purpose pertaining to the performance of functions and responsibilities under this section;

(5) to select, appoint, and employ such employees as may be necessary for carrying out the functions, powers, and duties of the Inspector General, which employees shall be compensated in accordance with salary schedules established pursuant to section 117(b)(2);

(6) to obtain services of consultants at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code; and

44 FR 58678.

(7) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

(f)(1) Upon request of the Inspector General for information or assistance under subsection (e)(2), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (e)(1) or (e)(2) is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(g) The Board of Directors shall make available to the Inspector General appropriate and adequate office space at offices of the Corporation.

(h) The Inspector General—

(1) may make such additional investigations and reports relating to the operations of the Corporation as are, in the judgment of the Inspector General, necessary or desirable; and

(2) shall provide such additional information or documents as may be requested by any committee or subcommittee of either House of Congress with respect to matters within their jurisdiction.

(i) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Board of Directors and to the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval.

94 STAT. 644

PUBLIC LAW 96-294—JUNE 30, 1980

Establishment.
42 USC 8719.

ADVISORY COMMITTEE

SEC. 123. (a) There is hereby established an Advisory Committee to the Board of Directors for the purpose of—

(1) reviewing the Corporation's solicitations of proposals for financial assistance proposed for issuance pursuant to section 127; and

(2) advising the Corporation in relation to other matters within the expertise of the Advisory Committee, or any member thereof, as the Board of Directors may request of the Advisory Committee from time to time.

Membership.

(b) The Advisory Committee is composed of the Secretary of the Treasury, the Secretary of Defense, the Secretary of the Interior, the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Chairman of the Energy Mobilization Board. The Chairman of the Advisory Committee shall be designated by the President from among its members.

(c) The Advisory Committee shall meet with the Board of Directors not less than semiannually, and the Corporation shall furnish to the Advisory Committee such professional, secretarial, and other services as the Advisory Committee may request.

(d) During any meeting with the Board of Directors or in any communication with the Corporation, the members of the Advisory Committee shall be governed by the laws and regulations respecting conflicts of interest applicable to their respective departments and agencies as such laws and regulations relate to meetings with representatives of a private corporation.

SUBTITLE C—PRODUCTION GOAL OF THE CORPORATION

NATIONAL SYNTHETIC FUEL PRODUCTION GOAL

Establishment.
42 USC 8721.

SEC. 125. There is hereby established a national goal of achieving a synthetic fuel production capability equivalent to at least 500,000 barrels per day of crude oil by 1987 and of at least 2,000,000 barrels per day of crude oil by 1992, from domestic resources.

PRODUCTION STRATEGY

42 USC 8722.

SEC. 126. (a)(1) In order to assure achievement of the purposes of this title and the national synthetic fuel production goal set forth in section 125, the Corporation—

(A) shall, pursuant to section 127(a), solicit proposals for synthetic fuel projects;

(B) shall, pursuant to section 131(a), award financial assistance to those qualified concerns submitting proposals acceptable to the Board of Directors;

(C) shall, after soliciting proposals pursuant to subparagraph (A) and reviewing such proposals, if in the judgment of the Board of Directors, there are, or will be, insufficient acceptable proposals as necessary to achieve the purposes of this title, undertake to negotiate contracts pursuant to subtitle D as necessary to achieve the purposes of this title; and

(D) may, only after fulfilling the requirements of subparagraphs (A), (B), and (C), and paragraph (3), if in the judgment of the Board of Directors, there still are, or will be, insufficient acceptable proposals as necessary to achieve the purposes of this title, consistent with the objectives set forth in paragraph (2) and

subject to the limitations of subtitle E, undertake Corporation construction projects pursuant to subtitle E as necessary to achieve the purposes of this title. *Pest*, p. 665.

(2)(A) Prior to the approval of a comprehensive strategy pursuant to subsection (c), the Corporation in discharging its responsibilities under paragraph (1) shall employ financial assistance pursuant to subtitle D or Corporation construction projects pursuant to subtitle E in such manner as will, in the judgment of the Board of Directors, (i) incorporate a technological diversity of processes, methods and techniques for each domestic resource that offers significant potential for use as a synthetic fuel feedstock as well as (ii) offer the potential for achieving the national synthetic fuel production goal set forth in section 125.

(B) For the purposes of this paragraph, the term "domestic resource" shall be construed so as to require the consideration of different types and qualities of coal (such as high- and low-sulphur coal, or Eastern and Western coal), shale, and tar sands, as different domestic resources. "Domestic resource."

(3) Prior to undertaking a Corporation construction project pursuant to subtitle E, the Corporation shall publish in the Federal Register its intent to undertake a Corporation construction project and the objectives of such a Corporation construction project, and shall solicit proposals to meet such objectives through the use of financial assistance mechanisms established under subtitle D. If the Corporation does not receive, within thirty days after the publication of the objectives pursuant to the preceding sentence, an acceptable notice of intent to submit a proposal, the Corporation may undertake such a Corporation construction project pursuant to subtitle E. Publication in Federal Register.

(b)(1) Subject to the requirements of paragraph (2), the Corporation shall, consistent with the purposes of this title, establish a comprehensive strategy to achieve the national synthetic fuel production goal established by section 125. In the formulation of such comprehensive strategy, the Corporation— Comprehensive strategy, establishment.

(A) shall consider all practicable means for the commercial production of synthetic fuel from domestic resources, employing the widest diversity of feasible technologies; and

(B) after consultation with the Secretary of Defense, shall consider the feasibility of meeting national defense fuel requirements utilizing synthetic fuel produced pursuant to the provisions of this part.

(2) Subject to the requirements of paragraph (3), not later than four years after the effective date of this part, the Board of Directors shall adopt and directly submit its proposed comprehensive strategy to the Congress. Such comprehensive strategy, when approved pursuant to subsection (c), shall become the comprehensive strategy of the Corporation to achieve the national synthetic fuel production goal established by section 125. Submittal to Congress.

(3) The proposed comprehensive strategy shall—

(A) to the extent feasible, set forth the recommendations of the Board of Directors on the Corporation's objectives and schedules for their achievement;

(B) directly address and give emphasis to private sector responsibilities in the efforts necessary to achieve the national synthetic fuel production goal established by section 125;

(C) specifically address how any Corporation involvement recommended in the comprehensive strategy will be expressly

limited and ultimately terminated upon a date or event certain in the future;

(D) include a financial or investment strategy prospectus which sets forth the justification for the requested authorization of appropriations;

(E) include findings, based upon accompanying comprehensive reports, regarding synthetic fuel projects which received financial assistance prior to submission of such comprehensive strategy to the Congress with respect to—

(i) the economic and technological feasibility of each such project including information on product quality, quantity, and cost per unit of production; and

(ii) the environmental effects associated with each such project as well as projected environmental effects and water requirements; and

(F) include recommendations based upon accompanying comprehensive reports concerning the specific mix of technologies and resource types which the Corporation proposes to support after approval pursuant to subsection (c) of the comprehensive strategy.

Additional
authorizations.

(4) After the approval of the comprehensive strategy, the Board of Directors may request, pursuant to subsection (c)(10), additional authorizations of appropriations. Such requests shall include a financial or investment prospectus which sets forth the justification for the requested authorizations of appropriations.

Approval.

(c)(1)(A) The comprehensive strategy submitted by the Board of Directors to the Congress pursuant to subsection (b)(2) shall be deemed approved if a joint resolution of approval has been enacted into law during the same Congress in which such comprehensive strategy was submitted to the Congress. If either House of the Congress within ninety calendar days of continuous session after introduction fails to pass such a joint resolution or rejects such a joint resolution, the comprehensive strategy shall be deemed disapproved. For purposes of this subsection, the term "joint resolution" means only a joint resolution of either House of Congress as described in paragraph (5) or paragraph (10)(B).

"Joint
resolution."

(B) Ninety calendar days after receipt by the Congress of the comprehensive strategy, on the first day that both Houses of the Congress are in session after such ninety-day period, a joint resolution of approval containing the authorization of appropriations requested by the Corporation for the proposed comprehensive strategy shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives.

(C) The Corporation may withdraw the comprehensive strategy any time prior to the adoption of such joint resolution by either House of the Congress.

(2) Upon introduction, the joint resolution shall be referred immediately to the Committee on Energy and Natural Resources of the Senate and the appropriate committee or committees of the House of Representatives.

(3) For the purpose of subsection (c)(1)(A) of this section—

(A) continuity of session is broken only by an adjournment of Congress sine die at the end of the second session of a Congress; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar-day period involved.

(4) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (5) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the respective House.

(5) The joint resolution approving the comprehensive strategy under this part shall read as follows after the resolving clause: "That the Congress of the United States approves the comprehensive strategy submitted to the Congress by the United States Synthetic Fuels Corporation on _____ and _____ dollars are hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes or other obligations of the United States Synthetic Fuels Corporation.", the first blank space therein being filled with the date and year, the second blank space therein being filled with the appropriate dollar figure.

(6)(A) If any committee to which such joint resolution with respect to the comprehensive strategy has been referred has not reported it at the end of 60 calendar days after its referral, it shall be in order to move either to discharge any such committee from further consideration of such joint resolution or to discharge any such committee from further consideration of any other joint resolution with respect to such comprehensive strategy which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring such joint resolution, shall be highly privileged (except that it may not be made after all committees to which such joint resolution has been referred have reported a joint resolution with respect to the comprehensive strategy), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution. Except to the extent provided in paragraph (9)(A), an amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other joint resolution with respect to the same comprehensive strategy.

(7)(A) When all such committees have reported, or have been discharged from further consideration of, a joint resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such a joint resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate, time
limitation.

(B) Debate on the joint resolution and all amendments thereto pursuant to paragraph (9)(A) shall be limited to not more than 10 hours and final action on the joint resolution shall occur immediately following conclusion of such debate. A motion further to limit debate shall not be debatable. Except to the extent provided in paragraph (9)(B), an amendment to, or motion to recommit such a joint resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a joint resolution was agreed to or disagreed to.

(8)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a joint resolution, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a joint resolution shall be decided without debate.

(9) With respect to the comprehensive strategy—

(A) In the consideration of any such joint resolution on any such comprehensive strategy, it shall be in order to offer an amendment to the dollar figure in the second blank of the text of the joint resolution described in paragraph (5), and any amendments thereto only containing such a dollar figure. No other amendments except pro forma amendments shall be in order.

(B) If one House receives from the other House a joint resolution with respect to the comprehensive strategy, then the following procedure applies:

(i) the joint resolution of the other House with respect to such comprehensive strategy shall not be referred to a committee; and

(ii) in the case of a joint resolution of the first House with respect to such plan—

(I) the procedure with respect to that or other resolutions of such House with respect to such plan shall be the same as if no joint resolution from the other House with respect to such comprehensive strategy had been received; but

(II) on any vote on final passage of a resolution of the first House with respect to such plan a resolution from the other House with respect to such plan where the text is identical shall be automatically substituted for the joint resolution of the first House.

(10)(A) The Corporation at any time after the approval of the comprehensive strategy may submit requests pursuant to subsection (b)(4) for additional authorizations of appropriations each of which shall be in the form of a joint resolution of approval (bearing an identification number).

(B) Such joint resolution shall read as follows after the resolving clause: "That the Congress of the United States approves the request transmitted to the Congress by the United States Synthetic Fuels Corporation on _____ and there are hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes or other obligations of the United States Synthetic Fuels Corporation the sum of _____ dollars.", the first blank space therein being filled with the day and year, and the second blank space therein being filled with the appropriate dollar figure.

(C) On the first day that both Houses of the Congress are in session after receipt of a joint resolution of approval containing the additional authorization of appropriations requested by the Corporation, the joint resolution described in subparagraph (B) shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives. Such resolution shall be considered in accordance with the procedures of this subsection.

(11) The aggregate of the authorizations of appropriations under paragraph (5) enacted into law and any subsequent requests by the Corporation for additional authorizations for appropriations under paragraph (10) enacted into law shall not exceed \$68,000,000,000.

(d)(1) Notwithstanding the provisions of subsection (c), if at the expiration of such time as the Corporation is permitted for submission of its comprehensive strategy to the Congress, the Corporation determines that an adequate basis of knowledge has not yet been developed upon which to formulate and implement a comprehensive strategy for the achievement of the national synthetic fuel production goal established in section 125, the Corporation shall report the reasons for such determination to the Congress, and may request, in a Corporation synthetic fuel action pursuant to section 128, such additional time up to one year as the Corporation considers necessary for the formulation of its proposed comprehensive strategy.

(2) Such request shall be deemed approved unless disapproved by either House of Congress pursuant to section 128. If such request is disapproved pursuant to section 128, the Corporation shall submit its proposed comprehensive strategy to the Congress within ninety days of such disapproval.

(3) The Board of Directors may, consistent with the purposes of this title, amend the approved comprehensive strategy if, in their judgment, such amendment is necessary to achieve the national synthetic fuel production goal set forth in section 125. If such amendment would substantially alter the use of funds previously approved by the Congress pursuant to subsection (c), the Board of Directors may not implement such amendment unless such amendment has been submitted to the Congress and has been approved pursuant to section 129. Any such amendment and its justification shall be included in the subsequent quarterly report to the Congress pursuant to section 177(c).

Post, p. 678.

SOLICITATION OF PROPOSALS

Sec. 127. (a)(1) The Corporation is hereby directed to solicit proposals from time to time from concerns interested in the construction or operation, or both, of synthetic fuel projects. The Corporation shall provide notice of such solicitations in the Federal Register and by such other notice as is customarily used to inform the public of Federal assistance for major research and development undertakings.

42 USC 8723.

(2) All proposed solicitations under paragraph (1) shall be submitted to the Advisory Committee established under section 123. The Advisory Committee shall have 30 calendar days to review and comment on such solicitations prior to their initial issuance.

(3) Within six months after the date of the enactment of this part, the Corporation shall make an initial set of solicitations directed by paragraph (1). Such set of solicitations shall encompass a diversity of technologies (including differing processes, methods, and techniques)

for each potential domestic resource as well as all of the forms of financial assistance authorized in subtitle D.

(b) All solicitations of proposals for financial assistance shall be conducted in a manner so as to encourage maximum open and free competition.

(c) Any concern may request the Board of Directors to issue a solicitation pursuant to this section for proposals for a general type of synthetic fuel project and the Board of Directors, if it deems the action to be in accordance with the purposes of this title and the provisions of this part, may issue such a solicitation.

(d) Each solicitation for proposals pursuant to the authority of this section shall set forth general evaluation criteria, as determined by the Board of Directors, taking into account—

(1) the achievement of the national synthetic fuel production goal established in section 125; and

(2) the requirements of section 126(a), for a general type of synthetic fuel project concerning—

(A) the type of domestic resource to be used by the proposed synthetic fuel project;

(B) the type or types of technologies to be employed; and

(C) the type and amount of synthetic fuel to be produced.

(e) Thirty days after the date of the enactment of this part, the Secretary of Energy, on behalf of the Corporation and pursuant to the authorities in this part, may make a solicitation for commercial scale high-Btu coal gas plants which shall be reviewed and acted upon by the Corporation pursuant to this part.

(f) The Corporation shall give priority consideration to applications for financial assistance from any concern proposing a synthetic fuel project in any State which, in the judgment of the Board of Directors, indicates an intention to expedite all regulatory, licensing, and related government agency activities related to such project.

(g) The Corporation shall consult with the Governor of any State in which a proposed Corporation construction project or a proposed joint venture project under section 136 would be located with regard to (1) the manner in which the project would be developed and (2) regulatory, licensing, and related governmental activities pertaining to such project. The States shall have the opportunity to provide written response to the Corporation on all aspects of such project development, licensing, and operation.

CONGRESSIONAL DISAPPROVAL PROCEDURE

"Corporation
synthetic fuel
action."
42 USC 8724.

SEC. 128. (a) For purposes of this section, the term "Corporation synthetic fuel action" means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) The Corporation shall transmit any Corporation synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any Corporation synthetic fuel action is transmitted to the appropriate officers of each House, for the purposes of this section such Corporation synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

(c) Except as provided in subsection (e), if a Corporation synthetic fuel action is transmitted to both Houses of Congress, such Corporation synthetic fuel action shall take effect at the end of the first

period of 30 calendar days of continuous session of the Congress after the date on which such Corporation synthetic fuel action is received by such Houses, unless between the date on which such Corporation synthetic fuel action is received and the end of such 30 calendar day period, either House passes a resolution stating in substance that such House does not favor such action.

(d) For purposes of subsection (c)—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period.

(e) Under provisions contained in a Corporation synthetic fuel action, any provision of such Corporation synthetic fuel action may take effect on a date later than the date on which such Corporation synthetic fuel action otherwise would take effect, if such action is not disapproved, pursuant to the provisions of this section.

(f) This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such, it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(g)(1) For purposes of subsection (b), the term “resolution” means only a resolution of either House of the Congress the matter after the resolving clause of which is as follows: “That the _____ does not favor the Corporation synthetic fuel action numbered _____ received by the Congress on _____, 19____,” the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled. Any such resolution may only contain a reference to one Corporation synthetic fuel action.

(2) A resolution once introduced with respect to a Corporation synthetic fuel action shall immediately be referred to the Committee on Energy and Natural Resources of the Senate and to the appropriate committee or committees of the House of Representatives (and all resolutions with respect to the same Corporation synthetic fuel action shall be referred to the same committee or committees).

(3)(A) If any committee to which a resolution with respect to a Corporation synthetic fuel action has been referred has not reported it at the end of 20 calendar days after it was received by the House involved, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from further consideration of any other resolution with respect to such Corporation synthetic fuel action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Corporation synthetic fuel action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An

“Resolution.”

amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same Corporation synthetic fuel action.

(4)(A) When all committees to which the resolution was referred have reported (or have been discharged from further consideration of) a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate, time
limitation.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(5)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

Appeals.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(6) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a Corporation synthetic fuel action, then it shall not be in order to consider in that House any other resolution with respect to the same Corporation synthetic fuel action.

CONGRESSIONAL APPROVAL PROCEDURE

42 USC 8725.

SEC. 129. (a)(1) Any amendment to the comprehensive strategy submitted by the Board of Directors to the Congress pursuant to section 126(d) shall be deemed approved if a concurrent resolution of approval has been approved by the Congress during the same Congress in which such request was submitted. If the Congress, within 90 calendar days of continuous session after introduction, fails to approve such a concurrent resolution or either House of Congress rejects such a concurrent resolution, the request shall be deemed disapproved.

(2) On the first day that both Houses of Congress are in session after receipt of such amendment, a concurrent resolution of approval shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives.

(3) The Corporation may withdraw the amendment any time prior to the adoption of such concurrent resolution by either House of the Congress.

(b) Upon introduction, the concurrent resolution shall be referred immediately to the Committee on Energy and Natural Resources of the Senate and the appropriate committee or committees of the House of Representatives.

(c) For the purpose of subsection (a)(1) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die at the end of the second session of a Congress; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar day period involved.

(d) This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (e) of this section; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the respective House.

(e) The concurrent resolution approving the amendment under this part shall read as follows after the resolving clause: "That the Congress of the United States approves the amendment to the comprehensive strategy submitted to the Congress by the United States Synthetic Fuels Corporation on _____", the blank space therein being filled with the date and the year.

(f)(1) If any committee to which such concurrent resolution with respect to the amendment to the comprehensive strategy has been referred has not reported it at the end of 60 calendar days after its referral, it shall be in order to move either to discharge any such committee from further consideration of such concurrent resolution or to discharge any such committee from further consideration of any other concurrent resolution with respect to such amendment to the comprehensive strategy which has been referred to such committee.

(2) A motion to discharge may be made only by an individual favoring such concurrent resolution, shall be highly privileged (except that it may not be made after all committees to which such joint resolution has been referred have reported a concurrent resolution with respect to the request), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the concurrent resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same amendment to the comprehensive strategy.

(g)(1) When all such committees have reported (or have been discharged from further consideration of) a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such a concurrent resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the

motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate, time
limitation.

(2) Debate on the concurrent resolution shall be limited to not more than 5 hours and final action on the concurrent resolution shall occur immediately following conclusion of such debate. The 5 hours shall be equally divided between supporters and opponents of such resolution. A motion further to limit debate shall not be debatable. Except to the extent provided in subsection (i), an amendment to, or motion to recommit such a concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a concurrent resolution was agreed to or disagreed to.

(h)(1) Motions to postpone, made with respect to the discharge from committee, or the consideration of a concurrent resolution, shall be decided without debate.

Appeals.

(2) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a concurrent resolution shall be decided without debate.

(i) With respect to a concurrent resolution related to an amendment to the comprehensive strategy, if one House receives from the other House a concurrent resolution with respect to such amendment, then the following procedure applies:

(1) the concurrent resolution of the other House with respect to such request shall not be referred to a committee; and

(2) in the case of a concurrent resolution of the first House with respect to such request—

(A) the procedure with respect to that or other concurrent resolutions of such House with respect to such amendment shall be the same as if no concurrent resolution from the other House with respect to such request had been received; but

(B) on any vote on final passage of a concurrent resolution of the first House with respect to such amendment a concurrent resolution from the other House with respect to such plan where the text is identical shall be automatically substituted for the concurrent resolution of the first House.

SUBTITLE D—FINANCIAL ASSISTANCE

AUTHORIZATION OF FINANCIAL ASSISTANCE

42 USC 8731.

SEC. 131. (a) Financial assistance shall be awarded to a qualified concern whose proposal is most responsive to a solicitation for proposals issued under the authority of section 127 and is most likely to advance the purposes of this title, including consideration of price and other factors. Whenever, in the judgment of the Board of Directors, it is practicable and provident to do so, the Corporation shall award financial assistance on the basis of competitive bids.

(b)(1) Subject to the limitations set forth in this part, the Corporation is authorized, upon such terms and conditions as the Board of Directors shall determine—

(A) to provide financial assistance to a qualified concern whose proposal is most responsive to a solicitation for proposals issued under the authority of section 127;

(B) with the consent of the recipient, to renew, modify, or extend such financial assistance; and

(C) in connection with the awarding of financial assistance, to require such security and collateral as the Corporation deems appropriate for the repayment of any fixed or contingent obligations to the Corporation.

(2) The proposal selected for financial assistance pursuant to any solicitation shall be that proposal which, in the judgment of the Board of Directors, is most advantageous in meeting the national synthetic fuel production goal established under section 125. Preference in such selection shall be given to—

(A) the proposal which represents the least commitment of financial assistance by the Corporation and the lowest unit production cost within a given technological process, taking into account the amount and value of the anticipated synthetic fuel products; and

(B) in determining the relative commitment of the Corporation, in decreasing order of priority—

(i) price guarantees, purchase agreements, or loan guarantees;

(ii) loans; and

(iii) joint-ventures.

(3) The Corporation shall also consider, in awarding financial assistance, among other relevant factors—

(A) the diversity of technologies (including differing processes, methods, and techniques); and

(B)(i) the potential cost per barrel or unit production of synthetic fuel from the proposed synthetic fuel project;

(ii) the overall production potential of the technology, considering the potential for replication, the extent of the resource and its geographic distribution, and the potential end use; and

(iii) the potential of the technology for complying with applicable regulatory requirements.

(4) If after a formal solicitation for competitive bids no bids are received during the period for response, or those received are not acceptable to the Board of Directors, and the Board of Directors makes a finding (A) that the synthetic fuel project is essential for the achievement of the national synthetic fuel production goal established under section 125 and the requirements of section 126(a) and (B) that competitive bids are not appropriate, the Board of Directors shall report such findings to the Committee on Energy and Natural Resources of the Senate and the Speaker of the House of Representatives and may then proceed to negotiate a contract of financial assistance for such project with a qualified concern.

(c) All contracts and instruments of the Corporation to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(d) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(e) Any contract for financial assistance shall require the development of a plan, acceptable to the Board of Directors, for the monitoring of environmental and health related emissions from the construction and operation of the synthetic fuel project. Such plan shall be developed by the recipient of financial assistance after consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, and appropriate State agencies.

(f) Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law

Report to
congressional
committees.

(except as may be specifically provided by reference to this subsection in any Act enacted after the effective date of this part), no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed by the Corporation, or which is secured in whole or in part by financial assistance provided by the Corporation, shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency or department of the United States, except as provided in section 151.

pplication.

(g) No financial assistance may be awarded unless an application therefor has been submitted to the Corporation in such manner and containing such information as the Corporation may require.

(h) The Corporation in awarding financial assistance shall give due consideration to promoting competition.

(i) Every applicant for financial assistance under this part shall, as a condition precedent thereto, consent to such examinations and reports thereon as the Corporation or its designee may require for the provisions of this part. The Corporation shall require such reports and records as it deems necessary from any recipient of financial assistance in connection with activities carried out pursuant to this part. The Corporation is authorized to prescribe the manner of keeping records by any recipient of financial assistance and the Corporation or its designee shall have access to such records at all reasonable times for the purpose of insuring compliance with the terms and conditions upon which financial assistance was awarded.

(j)(1) In no case shall the aggregate amount of financial assistance awarded or committed under this part exceed at any one time 15 per centum of the total obligational authority of the Corporation authorized under section 152—

(A) to any one synthetic fuel project, either directly or indirectly; or

(B) to any one person, including such person's affiliates and subsidiaries, either directly or indirectly.

(2) For the purpose of determining compliance with paragraph (1)(B), any financial assistance to a synthetic fuel project under this part shall be allocated among the project participants in direct proportion to each person's participation in such project.

(k)(1) Any contract for financial assistance shall specify in dollars the maximum amount of the liability of the Corporation under such contract, as computed in accordance with section 152.

otification.

(2) The Corporation shall notify the Secretary of the Treasury of its intention to enter into a contract for financial assistance prior to the execution of such contract.

vest. p. 682.

(3) Any such contract shall be accompanied by a certification by the Secretary of the Treasury pursuant to section 195(a)(3) that sufficient unencumbered appropriations are available in the Energy Security Reserve to satisfy the obligation of the contract.

(l) With regard to a synthetic fuel project proposed by a concern whose rates are regulated, or with regard to a synthetic fuel project the management of which proposes to sell synthetic fuels to a person whose rates for the use or transportation of such fuels are regulated, the Corporation is authorized to consider as a factor in any decision to award financial assistance whether the regulatory body, or bodies, are likely to issue a ratemaking decision which will protect the financial interests of the investors and the Corporation.

(m) For the purposes of determining (1) the total costs of the synthetic fuel project for sections 132 and 133, and (2) the total costs of

the synthetic fuel project module for section 136, any real or personal property or services obtained for the facility in a transaction with any person or concern (including an affiliated company as defined in section 2(a)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(2)) and an affiliated person as defined in section 2(a)(3) of such Act (15 U.S.C. 80a-2(a)(3))) who has, or will have, an ownership or profit interest in the facility shall be valued at the lower of the cost to the project or fair market value, disregarding any portion of such fair market value which is attributable to the prospect of receiving financial assistance under this part.

(n) The Corporation, as a condition to providing financial assistance, other than loans pursuant to section 132 and loan guarantees pursuant to section 133, may require that the Corporation share in profits from the operation of a synthetic fuel project on a fair basis.

(o) Whenever the Corporation, by one or more actions, awards a combination of two or more forms of financial assistance for a single synthetic fuel project, the Corporation shall insure that the recipient of such financial assistance shall bear a reasonable degree of risk in the construction and operation of such project: *Provided, however*, That any person who is solely in the position of a lender shall not be required to bear such risk. The Corporation shall not award more than a single form of financial assistance under this part unless the Board of Directors determines that multiple forms of financial assistance are required for the viability of the project, and further, that the project is necessary to achieve the purposes of this title and the provisions of this part.

(p) The Corporation shall not award financial assistance in the form of loans pursuant to section 132 or joint ventures pursuant to section 136 unless the Board of Directors determines that neither price guarantees, purchase agreements, nor loan guarantees will adequately support the construction and operation of the synthetic fuel project or will restrict the available participants for such project.

(q) The Corporation, in consultation with the Secretary of the Treasury, shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any financial assistance will have the minimum possible impact on the capital markets of the United States, taking into account Federal activities which directly or indirectly influence such capital markets. Additionally, the Corporation shall impose such terms and conditions on any financial assistance (after evaluating the financing of the synthetic fuel project, the tax benefits which would be available to investors in the synthetic fuel project, and any regulatory actions associated with the synthetic fuel project) as may be necessary to assure that any investors having an ownership or profit interest in the synthetic fuel project bear a substantial risk of after tax loss in the event of any default or other cancellation of the synthetic fuel project.

(r) The Corporation shall insure that financial assistance awarded under this part for (1) loans pursuant to section 132, (2) loan guarantees pursuant to section 133, (3) joint ventures pursuant to section 136, or (4) any combination of forms of financial assistance including one or more of the aforementioned forms, in the judgment of the Board of Directors, encourages and supplements, but does not compete with or supplant, any private capital investment which otherwise would be available to a proposed synthetic fuel project on reasonable terms and conditions which would permit such project to be undertaken. To that end, the Corporation shall establish internal

procedures, standards and criteria for the timely review for compliance with such requirement of each new award of financial assistance for a specific proposed synthetic fuel project and, further, the Board of Directors shall determine, in its judgment, that any financial assistance by the Corporation for the project will not compete with nor supplant such available private capital investment and that adequate financing for the project would not otherwise be available to a proposed synthetic fuel project on reasonable terms and conditions which would permit such project to be undertaken.

(s) Any price guarantee pursuant to section 134 or purchase agreement pursuant to section 135 shall include an express provision to the effect that the price guarantee or purchase agreement shall be the subject of review and possible renegotiation, pursuant to section 131(b)(1)(B), within ten years from the date of initial production by the synthetic fuel project, at which point the Corporation shall specifically determine the need for continued financial assistance pursuant to such price guarantee or purchase agreement.

(t) The Corporation shall, in its determination of the need for financial assistance awarded pursuant to this part, take into consideration (1) any specific tax credit directly associated with a synthetic fuel project, (2) any financial assistance that has been or will be provided by Federal or State agencies, and (3) the potential revenues generated by the project from the production of non-synthetic fuel products.

Cost sharing
agreements.

(u)(1) The Corporation is authorized to enter into cost-sharing agreements with applicants for financial assistance to refine the design of proposed synthetic fuel projects so as to improve the accuracy of the preliminary total estimated costs upon which financial assistance in the form of loans and loan guarantees will be based. In the event of an award of a loan or loan guarantee, the Corporation's share of any such cost-sharing agreement shall be incorporated in such loan or loan guarantee.

(2) Such cost-sharing agreements shall not exceed 1 percent of the preliminary total estimated cost of the applicant's proposed synthetic fuel project.

(3) The Corporation is authorized to expend not to exceed 1 percent of the aggregate obligational authority under section 151 for cost-sharing agreements under this subsection.

LOANS MADE BY THE CORPORATION

42 USC 8732.

SEC. 132. (a)(1) Subject to the limitations set forth in paragraphs (2) and (3), the Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into, loans to any concern for a synthetic fuel project.

(2)(A) Subject to the limitation contained in subparagraph (B), loans under this section shall not exceed 75 per centum of the initial total estimated cost of the synthetic fuel project, as estimated by the Corporation as of the date of the loan or commitment to loan.

(B) Any loan under this section shall be limited to the lesser of 49 per centum of the initial total estimated cost or not more than a minority financial position in the project, unless the Board of Directors determines that the borrower has satisfactorily demonstrated that the limits established in this subparagraph would prevent the financial viability of the proposed project and therefore additional loan assistance is necessary.

(3) In the event the total cost of the project are thereafter estimated by the Corporation to exceed the total cost estimated under paragraph (2), the Corporation may, upon application therefor, lend additional amounts as follows:

(A) up to 50 per centum of the difference between the revised total estimated cost and the initial total estimated cost under paragraph (2): *Provided*, That the revised total estimated cost does not exceed 200 per centum of the initial total estimated cost under paragraph (2); and

(B) if the revised total estimated cost exceeds 200 per centum of the initial total estimated cost, up to 40 per centum of the amount in excess of 200 per centum of the initial total estimated cost, except that if the revised total estimated cost exceeds 250 per centum of the initial total estimated cost the Corporation shall not award such additional amounts unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128, and such Corporation synthetic fuel action has not been disapproved.

(4) The per centum specified in the exception contained in paragraph (3)(B) shall be computed based upon the initial total estimated cost of the project adjusted to include any increase or decrease pursuant to an appropriate construction price index for the type of construction involved.

(b) Each loan made under this section shall bear interest at such rate as the Corporation may determine, giving consideration to the needs and capacities of the recipient and the prevailing rates of interest (public and private): *Provided*, That such rate shall not be less than a rate determined by the Secretary of the Treasury, for the Corporation, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of such loans. No loan shall be made unless the Corporation shall have determined that there is a reasonable prospect of repayment or that successful completion and operation of the synthetic fuel project will have a substantial value in helping to meet the national synthetic fuel production goal established under section 125.

Interest rate.

(c) Loans may be made either directly or in cooperation or participation with banks or other lenders. Loans may be made directly upon promissory notes or other evidence of indebtedness or by way of discount or rediscount of obligations tendered for the purpose.

(d) If the Board of Directors determines that the borrower is unable to meet payments under a loan agreement and is not in default, it is in the public interest to permit the borrower to continue to pursue the purposes of the synthetic fuel project, and the probable net benefit to the Corporation in forbearing from exercising its rights under a loan agreement will be greater than that which would result in the event of a default, and if the borrower agrees to make such payments to the Corporation on terms and conditions, including interest, which are satisfactory to the Corporation, then the Corporation may forbear from exercising its rights under the loan agreement.

(e) No loan under this section shall have a maturity date of more than 30 years or the useful life of the synthetic fuel project involved, whichever is less.

Maturity date.

LOAN GUARANTEES MADE BY THE CORPORATION

42 USC 8733.

Sec. 133. (a)(1) Subject to the limitations set forth in paragraphs (2) and (3), the Corporation is authorized, on such terms and conditions (including the right of subrogation) as the Board of Directors may prescribe, to commit to, or enter into loan guarantees against loss of principal and interest on bonds, notes, or other obligations (including refinancing thereof) issued solely to provide funds to any concern for a synthetic fuel project.

(2) Loan guarantees under this section shall not exceed 75 per centum of the initial total estimated cost of the synthetic fuel project, as estimated by the Corporation as of the date of the guarantee or commitment to guarantee.

(3) In the event that the total cost of the project are thereafter estimated by the Corporation to exceed the total cost estimated under paragraph (2), by the Corporation, the Corporation may, upon application therefor, guarantee additional amounts as follows:

(A) up to 50 per centum of the difference between the revised total estimated cost and the initial total estimated cost under paragraph (2); *Provided*, That the revised total estimated cost does not exceed 200 per centum of the initial total estimated cost under paragraph (2); and

(B) if the revised total estimated cost exceeds 200 per centum of the initial total estimated cost, up to 40 per centum of the amount in excess of 200 per centum of the initial total estimated cost, except if the revised total estimated cost exceeds 250 per centum of the initial total estimated cost, the Corporation shall not award such additional amounts unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section.

(C) The per centum specified in the exception contained in subparagraph (B) shall be computed based upon the initial total estimated cost of the project adjusted to include any increase or decrease pursuant to an appropriate construction price index for the type of construction involved.

(4) The Corporation, in reviewing the need for financial assistance pursuant to applications for loan guarantees, shall consider whether the concern or concerns making such application otherwise would be unable, exercising prudent business judgment, as determined by the Board of Directors, to finance the synthetic fuel project, taking into account among other factors, the availability of debt financing under normal lending criteria based on the assets associated with the project.

(5) Any loan guarantee made by the Corporation under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof, and shall be conclusive evidence that such loan guarantee complies fully with the provisions of this part and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

(6) The Corporation is authorized pursuant to paragraph (1) to award loan guarantees to any concern with a partial interest in a synthetic fuel project.

(b) If the Board of Directors determines that—

(1) the borrower is unable to meet payments and is not in default; it is in the public interest to permit the borrower to

continue to pursue the purposes of such project; and the probable net benefit to the Corporation in paying the principal and interest due under a loan guarantee agreement will be greater than that which would result in the event of a default;

(2) the amount of any payment which the Corporation would be required to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay at that time; and

(3) the borrower agrees to reimburse the Corporation for such payment on terms and conditions, including interest, which are satisfactory to the Corporation,

then the Corporation is authorized to pay the lender under a loan guarantee agreement, an amount not greater than the principal and interest which the borrower is obligated to pay and which the Corporation has guaranteed under such agreement.

(c) No loan guaranteed under this section shall have a maturity date of more than 30 years or the useful life of the synthetic fuel project involved, whichever is less. Maturity date.

PRICE GUARANTEES MADE BY THE CORPORATION

SEC. 134. The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into, price guarantees providing that the price that a concern will receive for all or part of the production from a synthetic fuel project shall not be less than a specified sales price determined as of the date of execution of the commitment or the price guarantee: *Provided*, That no such price guarantee may be based upon a "cost plus" arrangement or variant thereof which guarantees a profit to the concern, except that the use of a "cost of service" pricing mechanism by a concern pursuant to law, or by a regulatory body establishing rates for a regulated concern, shall not be deemed to be a "cost plus" arrangement or variant thereof: *Provided further*, That if the Corporation determines in its sole discretion that such project would not otherwise be satisfactorily completed or continued and that completion or continuation of such project would be necessary to achieve the purposes of this title, the sales price set forth in the price guarantee may be renegotiated. In awarding financial assistance under this section, the Corporation shall establish such specified sales price at the level which will provide the minimum subsidy determined by the Board of Directors to be necessary to provide an adequate incentive, in light of projected prices of competing fuels and the requirements for economic and financial viability of the synthetic fuel project. 42 USC 8734.

PURCHASE AGREEMENTS MADE BY THE CORPORATION

SEC. 135. (a) The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into purchase agreements for all or part of the production from a synthetic fuel project. The sales price specified in a purchase agreement shall not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Corporation determines that such sales price must exceed such estimated prevailing market price in order to insure the production of synthetic fuel to achieve the purposes of this title. 42 USC 8735.

(b) The Corporation in entering into, or committing to enter into a purchase agreement shall require—

- (1) assurance that the quality of the synthetic fuel purchased meets standards for the use for which such fuel is purchased;
 - (2) assurances that the ordered quantities of such fuels are delivered on a timely basis; and
 - (3) such other assurances as may reasonably be required.
- (c) Each purchase agreement, or commitment to enter into a purchase agreement, shall provide that the Corporation retain the right to refuse delivery of the synthetic fuel involved upon such terms and conditions as shall be specified in the purchase agreement.
- (d) The Corporation is authorized to take delivery of synthetic fuel pursuant to a purchase agreement and, subject to section 172(d), to sell such synthetic fuel. In any case in which the Corporation accepts delivery of and does not sell such synthetic fuel to a person, such synthetic fuel may be purchased by the Federal Government for use by an appropriate Federal agency. Such Federal agency shall pay the prevailing market price, as determined by the Secretary of Energy, for the product which such synthetic fuel is replacing from sums appropriated to such Federal agency for the purchase of fuel.
- (e) The Corporation is authorized to transport and store and have processed and refined any synthetic fuel obtained pursuant to a purchase agreement under this section.

JOINT VENTURES BY THE CORPORATION

42 USC 8736.

Sec. 136. (a) Prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or to enter into joint ventures for synthetic fuel project modules. In the selection of a concern or concerns for a joint venture and in the negotiation of a joint venture agreement pursuant to this section, the Corporation may, to the extent that the Corporation does not have available sufficient capability for evaluation or management of the proposed joint venture, utilize personnel of the Department of Energy, pursuant to section 171(a)(9), to the extent that such personnel have technical expertise related to the technical matters associated with such selection and negotiation. In a joint venture the Corporation may undertake the construction and operation of a synthetic fuel project module only by contract: *Provided, however,* That the Corporation shall not finance more than 60 per centum of the total costs of the synthetic fuel project module, as estimated by the Corporation as of the date of execution of the joint venture agreement.

(b) Any joint venture shall be restricted to a synthetic fuel project module which, in the judgment of the Board of Directors, will—

- (1) demonstrate the commercial feasibility of a technology for the production of synthetic fuel from a significant domestic resource which offers potential for achievement of the national synthetic fuel production goal set forth in section 125; and
- (2) can, at the same site, be expanded into a synthetic fuel project.

(c) With regard to any joint venture, the initial contract may provide for purchase pursuant to such joint venture agreement of the equity interest of the Corporation in such joint venture by the participating concern, or concerns, after an appropriate interval, not to exceed five years after the date of operation of a synthetic fuel project module. The purchase price set forth in the joint venture agreement shall be established by the Board of Directors: *Provided,*

That if such purchase from the Corporation is not provided for in the initial joint venture agreement or is not exercised by such concern, or concerns, the Corporation, after an appropriate interval, not to exceed five years after the date of operation of a synthetic fuel project module pursuant to a joint venture agreement, shall dispose of its participation in such agreement pursuant to section 181.

(d)(1)(A) For the purposes of this section, the term "synthetic fuel project module" means any facility located in the United States which—

"Synthetic fuel project module."

- (i) is of a size smaller than a synthetic fuel project;
- (ii) will, if successful, demonstrate the technical and economic feasibility of the commercial production of synthetic fuels; and
- (iii) can eventually be expanded at the same site into a synthetic fuel project.

(B) Such term may include the necessarily related transportation or other facilities, equipment, plant, machinery, supplies, other materials, land, and mineral rights as described in section 112(18), (including all limitations and requirements in section 112(18)) associated with a synthetic fuel project module.

(2) For purposes of this section, the term "joint venture" means an agreement under which the Corporation and one or more persons participate in construction and operation of a synthetic fuel project module: *Provided*, That the interest of the Corporation in such joint venture shall be in proportion to the relative contribution of the Corporation to the joint venture.

"Joint venture."

(e) The Corporation participation in any joint venture pursuant to this section shall be limited to financial participation only and shall not include any direct role in the construction or operation of the module, other than as provided in subsection (f). Additionally, the Corporation's participation in any joint venture shall, pursuant to partnership law applicable to such joint venture, be limited to limited partnership status.

(f)(1) Nothing in this section shall prohibit the Corporation from negotiating, as part of the joint venture agreement pursuant to this section, such participation of the Corporation in the management decisions of the joint venture as the Board of Directors deems appropriate and necessary pursuant to the Corporation's financial interest in the joint venture.

(2) In no event, however, shall the persons in the joint venture agreement be denied the primary responsibility for management of the joint venture. The Corporation shall be liable only to the extent of its contractual commitment to contribute capital to the venture. No additional liability shall ensue even if, and to the extent that, the Corporation were to assume a role which might be construed to constitute the role of a general partner.

CONTROL OF ASSETS

Sec. 187. (a) The Corporation may acquire or retain control of a synthetic fuel project only— 42 USC 8737.

- (1) by foreclosure of a security interest or pursuant to a default under any financial assistance contract;
- (2) pursuant to section 136 or subsection (b) of this section; or
- (3) pursuant to subtitle E.

(b) The Corporation may acquire control of a synthetic fuel project which, prior to the approval of the comprehensive strategy pursuant

Ante. p. 644.

to section 126(c), is the subject of financial assistance under this part under the following circumstances:

(1) substantial progress has been made toward completion of the construction and operation of such project and the Board of Directors determines that such project will not commence operation, or will cease operation unless acquired by the Corporation;

(2) the operation of such project will make a significant contribution toward achieving the purposes of this title;

(3) such acquisition of control will not result in losses to the Corporation disproportionate to the benefits that operation of the project will produce in demonstrating a particular technology;

(4) failure of the Corporation to acquire such project would result in a greater financial liability of the Corporation than acquisition of the project by the Corporation; and

(5) with respect to projects subject to loans or loan guarantees, the Board of Directors determines that the concern is in default or immediately will go into default:

Provided, That the Corporation may not acquire any such control until it has submitted a plan for such acquisition to the President and the President approves such plan and transmits, with respect to such plan, a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section: *Provided further*, That completion of the construction or operation of any such project, the control of which was acquired pursuant to this subsection, may only be undertaken by contract: *Provided additionally*, That authorities in this subsection shall not be available for synthetic fuel projects which are the subject of price guarantees or purchase agreements.

(c) With respect to a synthetic fuel project subject to a loan or loan guarantee where the Corporation acquires control pursuant to subsection (b), the Corporation, on such terms and conditions as the Board of Directors may prescribe, is authorized to lease back to the concern involved such synthetic fuel project where such lease will assure the production of synthetic fuels from such project consistent with the purposes of this title: *Provided*, That the Corporation may not lease back such a project until it has submitted a plan regarding such lease-back to the President and the President approves such plan and transmits, with respect to such plan, a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section.

(d) For the purposes of this section, the term—

(1) "operating asset" means any real or personal property used in the synthetic fuel project; and

(2) "control" means the power to direct the use or disposition of operating assets of the synthetic fuel project through (A) direct ownership; or (B) ownership of the majority of the voting securities of a corporation or other concern which (i) owns or (ii) leases a synthetic fuel project: *Provided*, That "control" shall not be deemed to result from the ownership of operating assets of a synthetic fuel project which are leased back in accordance with subsection (c).

(e) Any control of synthetic fuel projects obtained pursuant to subsection (b) or (c) must be disposed of within not more than five years after the date of the acquisition of such control.

"Operating
asset."

"Control."

UNLAWFUL CONTRACTS

Sec. 138. Sections 431 and 432 of title 18, United States Code, shall apply to all contracts, instruments, or agreements of the Corporation, other than those contracts, instruments, or agreements of the Corporation which are exempted from the application of such sections by section 433 of such title, as if the Corporation were an agency of the United States. Such contracts, instruments, or agreements include financial assistance, advances, discounts and rediscounts, acceptances, releases, and substitution of security, together with extensions or renewals thereof. 42 USC 8738.

FEES

Sec. 139. (a) The Corporation may charge and collect fees in connection with the financial assistance provided pursuant to this part: *Provided*, That such fees shall not exceed 1 per centum of the amount of such financial assistance. Fees received by the Corporation may be applied against the administrative expenses of the Corporation related to providing financial assistance and probable losses. 42 USC 8739.

(b) The Corporation shall prescribe and collect an annual fee in connection with each loan guarantee provided pursuant to this part of one-half of 1 per centum of the amount of such loan guarantee. Sums realized from such loan guarantee fees shall be deposited in the Energy Security Reserve and shall be used solely to meet obligations arising from default by a recipient of financial assistance under this part.

DISPOSITION OF SECURITIES

Sec. 140. The Corporation shall, as soon as practicable, sell in public or private transactions all or any part of the notes, bonds, or any other evidences of indebtedness (except for the instrument of indebtedness received by the Corporation for any loan pursuant to section 132) of any other person ownership of which is acquired by the Corporation pursuant to this part: *Provided*, That, in the case of joint ventures pursuant to section 136 and Corporation construction projects, any contract by the Corporation in connection therewith shall provide for the disposition, as soon as practicable, of any notes, bonds, or other evidences of ownership acquired by the Corporation pursuant to this part. 42 USC 8740.

SUBTITLE E—CORPORATION CONSTRUCTION PROJECTS

CORPORATION CONSTRUCTION AND CONTRACTOR OPERATION

Sec. 141. (a) Subject to the requirements of section 126(a)(1)(D), section 126(a)(3), and section 142, the Corporation is authorized to own synthetic fuel projects, and the Corporation shall contract for the construction and operation of any such synthetic fuel project (hereinafter referred to as a "Corporation construction project"): *Provided*, That, prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation may undertake such projects only if, in the judgment of the Board of Directors, the Corporation construction project is necessary to meet the objectives of section 126(a)(2) and would not otherwise be constructed with financial assistance awarded under subtitle D. 42 USC 8741. *Ante*, p. 644.

(b) The power of the Corporation to own and contract for the construction and operation of a Corporation construction project shall include, among other things, the authority to—

- (1) take delivery of synthetic fuel from such project;
- (2) transport and store and have processed and refined such synthetic fuel;
- (3) subject to section 172(d), sell such synthetic fuel to a person; and
- (4) take all actions reasonably necessary therewith: *Provided*, That to the maximum extent feasible, the Corporation shall utilize the private sector for the activities associated with this subsection.

(c) Contracts for Corporation construction projects shall be negotiated on the basis of solicited bids pursuant to section 127: *Provided*, That any such contracts shall be expressly contingent upon the availability of sufficient funds.

(d) If, after undertaking a Corporation construction project, the Board of Directors determines that the total revised estimated cost of such Corporation construction project will exceed the initial estimated cost specified in the contract pursuant to subsection (c), the Board of Directors may, in its sole discretion, amend, modify, or renegotiate such contract to cover such additional costs; except that, if the revised estimated cost exceeds 175 per centum of the initial estimated cost, the Corporation shall not make such amendment, modification, or renegotiation unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved.

(e) The Corporation is authorized to undertake contractual agreements with, among others, any Federal department or agency (including the Department of Energy, the United States Army Corps of Engineers, and the Tennessee Valley Authority) to provide the design, the construction, or the management of the operation of Corporation construction projects: *Provided*, That in the case of a Federal department or agency, such department or agency has the available, experienced personnel to perform such project management function.

LIMITATIONS ON CORPORATION CONSTRUCTION PROJECTS

42 USC 8742.
Ante, p. 644.

SEC. 142. (a) Prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation is authorized not more than three Corporation construction projects subject to the requirements of sections 126(a)(1)(D) and 141.

(b) After the approval of a comprehensive production strategy pursuant to section 126(c), the Corporation shall not undertake any new, or expand any existing, Corporation construction project.

ENVIRONMENTAL, LAND USE, AND SITING MATTERS

42 USC 8743.

SEC. 143. (a) Corporation construction projects and joint ventures by the Corporation pursuant to section 136 shall be subject to all Federal and nondiscriminatory State and local environmental, land use, and siting laws to the same extent as such laws apply to privately sponsored synthetic fuel projects receiving financial assistance under this part and other similarly situated and used property.

(b) Contracts for the construction or operation of any Corporation construction project shall provide for the monitoring of the environmental and health related emissions from the construction and operation of such project. Such monitoring shall be conducted in accordance with a plan developed by the contractor after consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy.

PROJECT REPORTS

Sac. 144. Within three years of the initial operation of each Corporation construction project, the Corporation shall publish a report providing detailed information including— Publication.
42 USC 8744.

- (1) whether the synthetic fuel product can be sold at a price which is competitive with imported crude oil;
- (2) whether such technology can be operated on a commercial scale in compliance with applicable environmental requirements, including the Federal Water Pollution Control Act (33 U.S.C. 1151-1175) and the Clean Air Act (42 U.S.C. 7400 et seq.);
- (3) the effect on regional and local water supplies of the project and the commercial operation of such technology;
- (4) the health effects on workers and other persons of the project including any carcinogenic effects; and
- (5) the social and economic impacts on local communities which were most directly affected by such project.

FINANCIAL RECORDS

Sac. 145. Recipients of contracts under this subtitle shall keep such records and other pertinent documents as the Corporation shall prescribe, including records which fully disclose the disposition of the proceeds of such assistance, the cost of any Corporation construction project and such other records as the Corporation may require to facilitate an effective audit. The Corporation and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other directly pertinent documents. 42 USC 8745.

Accessibility.

SUBTITLE F—CAPITALIZATION AND FINANCE

OBLIGATIONS OF THE CORPORATION

Sac. 151. (a)(1) Subject to the limitations in section 152 and to the extent provided in advance in appropriation Acts, the Corporation is authorized to issue, solely to the United States of America acting by and through the Secretary of the Treasury (who shall purchase within five days of each such issuance and retain), notes or other obligations of the Corporation in the aggregate principal amount of \$20,000,000,000— 42 USC 8751.

(A) plus such sums as are authorized pursuant to section 126; and

(B) less such sums—

- (i) as are obligated for purposes of carrying out the provisions of section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation in— Ante, p. 619.

curring before such date under such section, up to a maximum of \$3,000,000,000; and

(ii) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974 (Public Law 93-577; 42 U.S.C. 5901 et seq.), up to a maximum of \$2,208,000,000.

Ante, p. 644.

(2) Such aggregate principal amounts shall become available to the Corporation upon the date of enactment of this part or under paragraph (1)(A) upon satisfying the requirements of section 126.

(b) The Corporation shall not issue any note or other obligation to the Secretary of the Treasury without prior consultation with the Secretary of the Treasury.

LIMITATIONS ON TOTAL AMOUNT OF OBLIGATIONAL AUTHORITY

42 USC 8752.

SEC. 152. (a) The Corporation may not incur obligations or make commitments, including administrative expenses pursuant to section 120 and operating expenses, in excess of the aggregate principal amount of \$20,000,000,000—

(1) plus such sums, if any, as are authorized pursuant to section 126; and

(2) less such sums—

Ante, p. 619.

(A) as are obligated for purposes of carrying out section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation incurred before such date under such section, up to a maximum of \$3,000,000,000; and

(B) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974 (Public Law 93-577; 42 U.S.C. 5901 et seq.) up to a maximum of \$2,208,000,000.

(b)(1) For purposes of determining the Corporation's compliance with this section—

(A) loans shall be counted at the initial face value of the loan plus such amounts as are subsequently obligated pursuant to section 132(a)(3);

(B) loan guarantees shall be counted at the initial face value of such loan guarantee (including any amount of interest which is guaranteed under such loan guarantee) plus such amounts as are subsequently obligated pursuant to section 133(a)(3);

(C) price guarantees and purchase agreements shall be valued by the Corporation as of the date of each such contract, based upon the Corporation's estimate of its maximum potential liability;

(D) joint ventures and Corporation construction projects shall be valued at the current estimated cost to the Corporation, as determined annually by the Corporation; and

(E) any increase in the liability of the Corporation pursuant to any amendment or other modification to a contract for a loan, loan guarantee, price guarantee, purchase agreement, joint venture, or Corporation construction project shall be counted.

(2) Determinations made under paragraph (1) shall be made in accordance with generally accepted accounting principles, consistently applied.

(3) If more than one form of financial assistance is to be provided to any one synthetic fuel project or if the financial assistance agreement provides a right to the Corporation to purchase the synthetic fuel project, then the obligations and commitments thereunder shall be valued at the maximum potential exposure on such project at any time during the life of such project.

(c) Any commitment by the Corporation to provide financial assistance or make capital expenditures which is nullified or voided for any reason shall not be considered in the aggregate for the purpose of subsection (a).

BUDGETARY TREATMENT

Sec. 153. The obligations and outlays incurred by the Secretary of the Treasury in connection with the purchase of notes and other obligations of the Corporation shall be included in the totals of the Budget of the United States Government. The receipts and disbursements of the Corporation in the discharge of its functions shall be presented annually in the Budget of the United States Government but shall not be included in the totals of the Budget. 42 USC 8753.

RECEIPTS OF THE CORPORATION

Sec. 154. (a) Subject to the limitations contained in section 152, moneys of the Corporation, other than those received pursuant to sections 139(b) and 151, shall be used to defray administrative expenses and, to the extent that surplus is available thereafter, to provide financial assistance pursuant to subtitle D. In the event that additional surplus is available thereafter such additional surplus shall, when authorized by the Board of Directors, be used in the purchase for redemption and retirement of any notes or other obligations of the Corporation. 42 USC 8754.

(b) Moneys of the Corporation not otherwise employed shall be—

(1) deposited with the Treasury of the United States subject to withdrawal by the Corporation by check drawn on the Treasury of the United States by a Treasury disbursing officer; or

(2) with approval of the Secretary of the Treasury, deposited in any Federal Reserve bank.

(c) In the event that moneys of the Corporation, including moneys received pursuant to sections 139(b) and 151, exceed the limitation set forth in section 152, such surplus shall be deposited as miscellaneous receipts in the general fund of the Treasury of the United States.

(d) Not later than 10 calendar days after the end of each fiscal quarter, the Corporation shall submit a written report to the Secretary of the Treasury detailing all moneys received by the Corporation during the previous fiscal quarter. Such reports shall be incorporated in the quarterly and annual reports required under section 177. Report.

TAX STATUS

Sec. 155. (a) The Corporation, its franchise, capital, reserves, surplus, income, and intangible property shall be exempt from all taxation now or hereafter imposed by the United States, or by any State, county, municipality, or local taxing authority, except that— 42 USC 8755.

(1) any real property owned in fee by the Corporation shall be subject to State, territorial, county, municipal, or other local taxation to the same extent, according to its value, as other

similarly situated and used real property, without discrimination in the valuation, classification, or assessment thereof;

(2) the Corporation and its employees shall be subject to any nondiscriminatory payroll and employment taxes intended to finance benefits based upon employment (such as social security and unemployment benefits) to the same extent as any privately owned corporation; and

(3) with respect to any Corporation construction project undertaken pursuant to subtitle E, the Corporation shall be subject to any nondiscriminatory tax levied or imposed by any State, county, municipality, or local taxing authority on—

(A) the extraction or severance of minerals owned or leased by the Corporation; and

(B) the purchase or lease of tangible personal property.

Ante, p. 644.

26 USC 1 *et seq.*

(b) With respect to any loan or debt obligation which is (1) issued after the enactment of this part by, or on behalf of, any State or any political subdivision or governmental entity thereof, (2) guaranteed or otherwise secured by the Corporation prior to the approval of a comprehensive strategy under section 126(c), and (3) not supported by the full faith and credit of the issuer as a general obligation of the issuer, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successors in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954: *Provided*, That with respect to the amount of such obligations that the issuer would have been able to issue as tax exempt obligations (other than obligations secured by the full faith and credit of the issuer as a general obligation of the issuer), the Corporation is authorized to pay only to the issuer any portion of the interest on such obligations, as determined by the Secretary of the Treasury after taking into account the interest rate which would have been paid on the obligations had they been issued as tax exempt obligations without being so guaranteed or otherwise secured by the Corporation and the interest rate actually paid on the obligations when issued as taxable obligations. Such payments shall be made in amounts determined by the Corporation, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

SUBTITLE G—UNLAWFUL ACTS, PENALTIES, AND SUITS AGAINST THE CORPORATION

FALSE STATEMENTS

42 USC 8761.

SEC. 161. Whoever makes any false statement, knowing or having reason to believe it to be false, or whoever knowingly overvalues any security, for the purpose of obtaining for himself or for any applicant any financial assistance under this part, extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Corporation or for the purpose of obtaining money, property, contract rights, or anything of value, under this part, shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or both.

FORGERY

42 USC 8762.

SEC. 162. Whoever—

(1) falsely makes, forges, or counterfeits any agreement, instrument, contract, or other obligation or thing of value, which purports to have been issued by the Corporation; or

(2) passes, utters, or publishes, or attempts to pass, utter, or publish, any false, forged, or counterfeited agreement, instrument, contract, or other obligation or thing of value, which purports to have been issued by the Corporation, knowing the same to be false, forged, or counterfeited; or

(3) falsely alters any agreement, instrument, contract, or other obligation or thing of value, issued by the Corporation; or

(4) passes, utters, or publishes, or attempts to pass, utter, or publish, as true, any falsely altered agreement, instrument, contract, or other obligation or thing of value, issued by the Corporation, knowing the same to be falsely altered,

shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

MISAPPROPRIATION OF FUNDS AND UNAUTHORIZED ACTIVITIES

SEC. 163. (a) Whoever—

42 USC 8763.

(1) embezzles, extracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to the Corporation;

(2) makes any false entry in any book, report, or statement of or to the Corporation or, without being duly authorized, draws any bond, other obligation, draft, bill of exchange, mortgage, judgment, or decree thereof, with intent to defraud the Corporation, any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Corporation;

(3) participates in, shares in, or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, commission, contract, or any other act of the Corporation, with intent to defraud; or

(4) gives to any person any unauthorized information concerning any future action or plan of the Corporation, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation, receiving financial assistance from the Corporation,

shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both. With respect to paragraph (4), the Corporation is authorized to obtain injunctive relief against the threatened misuse of information.

(b) Whoever falsely assumes or pretends to be a Director, officer, or employee acting under authority of the Corporation, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

CONSPIRACY

SEC. 164. If two or more persons conspire to commit any of the acts made unlawful by section 161, 162, or 163, each such person shall be fined or imprisoned, or both, as if such person committed the unlawful acts.

42 USC 8764.

INFRINGEMENT ON NAME

42 USC 8765.

Sec. 165. (a) No person or other government entity may use the words "United States Synthetic Fuels Corporation" or a combination of these words in a manner which is likely to mislead or deceive.

(b) A violation of this section may be enjoined at the suit of the Corporation.

ADDITIONAL PENALTIES

42 USC 8766.

Sec. 166. In addition to any penalties imposed as a result of a violation of any provision of this subtitle or section 138, the Corporation shall have the authority to bring an action to recover damages for losses incurred by the Corporation or any profit or gain acquired by the defendant as a result of a violation of any section of this subtitle.

SUITS BY THE ATTORNEY GENERAL

42 USC 8767.

Sec. 167. (a) If the Corporation shall engage in or adhere to any action, practices, or policies inconsistent with the the provisions of this part, or if the Corporation or any other person shall violate any provision of this part or shall obstruct or interfere with any activities authorized by this part, or shall refuse, fail, or neglect to discharge the duties and responsibilities under this part, or shall threaten any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which such Corporation or such other person resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States, or upon petition of the Comptroller General of the United States, to grant such relief as may be necessary or appropriate to prevent or terminate such conduct or threat.

(b) Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this part.

(c) Nothing in this section shall be deemed or construed to prevent the enforcement of the other provisions of this part by appropriate officers of the United States.

CIVIL ACTIONS AGAINST THE CORPORATION

42 USC 8768.

28 USC 81 *et seq.*

76A Stat. 51.

48 USC 1694.

Sec. 168. District courts of the United States constituted under chapter 5 of title 28, United States Code, and courts constituted under section 22 of the Organic Act of Guam (48 U.S.C. 1424), section 21 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1611), section 1 of title 3 of the Canal Zone Code, and the first section of the Act entitled "An Act to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", approved November 8, 1977 (91 Stat. 1265), shall have original jurisdiction for all civil actions against the Corporation: *Provided, however,* That the Federal Tort Claims Act (28 U.S.C. 2671 *et seq.*) shall apply to the Corporation as if it were a Federal agency and any judgment or compromised claim resulting from any action thereunder shall be paid by the Corporation from its funds: *And provided further,* That the Corporation shall be liable for contract claims only if such claims are based

upon a written contract to which the Corporation is an executing party. The liability of the Corporation shall be limited to the assets of the Corporation.

SUBTITLE H—GENERAL PROVISIONS

GENERAL POWERS

Sec. 171. (a) In carrying out the provisions of this part, the Corporation shall have the power, consistent with the provisions of this part— 42 USC 8771.

(1) to adopt, alter, and rescind bylaws and to adopt and alter a corporate seal, which shall be judicially noticed;

(2) to make agreements and contracts with persons and private or governmental entities: *Provided, however,* That the Corporation shall not provide any financial assistance except as specifically permitted under this part;

(3) to lease, purchase, accept gifts or donations of, or otherwise to acquire, and to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein;

(4) to sue and be sued, subject to the provisions of section 168, in its corporate name and to complain and defend in any court of competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings, except actions cognizable under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), in which actions it will be represented by the Attorney General;

(6) subject to section 117, to select, employ, and fix the compensation (including, without limitation, pension plans, health benefits, incentive compensation plans, paid vacation, sick leave, and other fringe benefits) of such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the Corporation; *Ante, p. 638.*

(7) to make provision for and designate such committees, and the functions thereof, as the Board of Directors may deem necessary or desirable;

(8) to indemnify Directors and officers of the Corporation, as the Board of Directors may deem necessary or desirable;

(9) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this part and to pay for such use, such payments to be credited to the applicable appropriation that incurred the expense;

(10) to determine and prescribe the manner in which obligations of the Corporation shall be incurred and its expenses allowed and paid;

(11) to obtain the services and fix the compensation of experts;

(12) to use the United States mails on the same terms and conditions as the executive departments of the United States Government; and

(13) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation, to carry out the provisions of this part and the exercise of its powers, purposes, functions, duties, and authorized activities.

(b) The foregoing powers shall only be exercised in connection with, as authorized by this part, administrative activities, financial assistance, and Corporation construction projects and, notwithstanding any other provision of law, the Corporation shall have no legal authority, power, or purpose pursuant to this part or any other law to engage in any other activities of a business, commercial, financial, or investment nature or perform any other governmental function; and any violation of this subsection shall be punished by—

- (1) a fine of not more than \$10,000 or by imprisonment for not more than five years, or both;
- (2) additional penalties pursuant to section 166; and
- (3) relief pursuant to section 167.

(c) In addition to the powers granted under subsections (a) and (b), and only in connection with Corporation construction projects, the Corporation is authorized to exercise the power of eminent domain in the United States district court for the district in which the real property is located to acquire interests in real property, including property owned by any State or local government body or entity or any Indian tribe, in the following cases: (1) when it is necessary to provide access to the site of a Corporation construction project for site-related transportation, power transmission, and other services, and (2) when it is necessary to construct a pipeline to transport synthetic fuel from a Corporation construction project to the nearest pipeline: *Provided*, That such power shall not be exercised to acquire property for the site of any Corporation construction project, or property for any coal slurry pipeline except within the immediate vicinity of the site of such a project: *Provided further*, That the Corporation may acquire property or interests in property by eminent domain only upon a finding by its Board of Directors that the property in question is necessary for a Corporation construction project and that no other alternative property is reasonably available. These findings of the Board of Directors shall not be subject to judicial review in any court.

COORDINATION WITH FEDERAL ENTITIES

42 USC 8772.

SEC. 172. (a) Prior to awarding, or making any commitment to award, financial assistance for any synthetic fuel project, the Corporation may seek the advice and recommendations of, or information or data maintained by, any Federal department or agency to assist the Corporation in determinations to be made hereunder. Any such advice, recommendation, information, or data, to the extent permitted by law, shall be provided to the Corporation within thirty days of its request: *Provided, however*, That where such information or data comprises a trade secret, or confidential or proprietary data, the Corporation shall agree to receive such data under the same terms of confidentiality agreed to by the agency involved.

(b) The Secretary of Energy is authorized to provide such technical assistance to the Corporation as is necessary to carry out the provisions of this part.

(c) The Corporation and the Secretary of Energy are authorized and directed, in accordance with applicable law, to exchange technical information relating to synthetic fuel development.

(d)(1) The Corporation is authorized and directed to consult with the Secretary of Defense in order to identify those national defense fuel supply requirements which may be achieved under this part. Such consultation shall include identification of the technical specifi-

cations for particular fuels and such other information as may be necessary to facilitate the production of synthetic fuel under this part for the purposes of national defense.

(2) With regard to any synthetic fuel which may be acquired by the Corporation through purchase agreements, joint ventures, or Corporation construction projects, the Corporation shall offer to sell such fuels first to the Department of Defense for national defense needs in accordance with such terms and conditions as the Corporation and the Secretary of Defense may provide by contract.

PATENTS

Sec. 173. (a) Any contract to provide financial assistance under subtitle D in the form of a loan, a loan guarantee, or a joint venture may, in the judgment of the Board of Directors, require that whenever any invention is made or conceived in the course of or under such contract, title to the patent for such invention shall vest in the Corporation. The Corporation shall have the right to license the patent on a nonexclusive basis. 42 USC 8773.
Ante, p. 654.

(b)(1) The Corporation may grant a nonexclusive license for the use of any invention for which it holds the patent but it may not grant an exclusive or partially exclusive license except as provided in paragraph (2).

(2) The Corporation is authorized to grant an exclusive or partially exclusive license for the use of any invention for which it holds the patent to a responsible applicant or applicants, upon terms reasonable under the circumstances, on the basis of competitive bids and following an opportunity for a hearing, upon notice in the Federal Register thereof to the public, only when, in the judgment of the Board of Directors, such exclusive or partially exclusive license is necessary to assure substantial utilization of such invention within a reasonable time.

(c) Each exclusive or partially exclusive license for the use of an invention granted under subsection (b) shall contain such terms and conditions as the Corporation may determine to be appropriate for the protection of the interests of the United States and the general public, including provision for the Corporation, commencing two years after the grant of a license pursuant to subsection (b), to terminate such license if (1) it has not been applied to the commercialization of domestic energy resources or (2) steps have not been taken as necessary to assure substantial utilization of such invention within a reasonable time.

(d) Loan or loan guarantee agreements entered into pursuant to sections 132 and 133, respectively, shall include such terms and conditions consistent with this subsection with respect to patents as the Corporation deems appropriate to protect the interests of the Corporation in the case of default. Such agreements shall require in the case of default that all patents, technology, and other proprietary rights resulting from the synthetic fuel project shall be available to the Corporation or its designee, to complete and operate the defaulting project. Such agreements shall contain a provision specifying that other patents, technology, and other proprietary rights owned by the borrower which are necessary for the purpose of completion and operation of the synthetic fuel project shall be licensed to the Corporation and its designees on equitable terms, including due consideration to the amount of the default payments due to the Corporation.

(e) Patents, technology, and proprietary rights vested in the Corporation as a result of default on a loan or loan guarantee agreement or vested in the Corporation pursuant to subsection (a) shall be transferred to the Secretary of Energy for administration under applicable law upon termination and liquidation of the Corporation.

(f)(1) Any contract entered into by the Corporation pursuant to subtitle E shall be subject to subsections (a) through (m) of section 9 of the Federal Non-Nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908 (a) through (m)). In applying such subsections to subtitle E—

Definitions.

(A) the term "Administrator" in such subsections shall mean the Chairman of the Board of Directors;

(B) the term "Administration" in such subsections shall mean the Corporation;

(C) the term "United States" in such subsections shall mean the Corporation;

(D) the term "Government" in subsections (a) and (d) of such sections shall include the Corporation for purposes of such subsection; and

(E) the term "any Government agency" in subsection (h)(2) of such section shall mean the United States.

42 USC 5908.

(2) Section 9 of the Federal Non-Nuclear Energy Research and Development Act of 1974 shall not apply to financial assistance granted pursuant to subtitle D.

(g) The United States Government shall have a royalty-free, nonexclusive license to any invention in which the Corporation owns title or reserves a license pursuant to subsection (a). The Corporation may assign title to any invention in which it has the title to the United States Government.

SMALL AND DISADVANTAGED BUSINESS UTILIZATION

42 USC 8774.

SEC. 174. In providing financial assistance, the Corporation shall require the recipient thereof to provide for the fair and reasonable participation by small and disadvantaged businesses in the synthetic fuel project receiving financial assistance and the Corporation shall do so with respect to Corporation construction projects under subtitle E.

RELATIONSHIP TO OTHER LAWS

42 USC 8775.

SEC. 175. (a) No Federal law shall apply to the Corporation as if it were an agency or instrumentality of the United States, except as expressly provided in this part.

42 USC 4321.

(b) No action of the Corporation except the construction and operation of synthetic fuel projects pursuant to subtitle E shall be deemed to be a "major Federal action significantly affecting the quality of the human environment" for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969, and with respect to Corporation construction projects, the Corporation shall be deemed to be a Federal agency for the purposes of such Act.

41 USC 351 note.

(c) The provisions of the Act entitled "An Act Relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act, and the provisions of the Service Contracts Act shall apply to the

Corporation as if it were an agency of the United States. All laborers and mechanics employed for the construction, repair, or alteration of synthetic fuel projects funded, in whole or in part, by the Corporation pursuant to section 132, 133, or 136 of this part shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act commonly known as the Davis-Bacon Act. The Corporation shall not extend any loan or loan guarantee for construction, repair or alteration of a synthetic fuel project unless a certification is provided to the Corporation prior to the commencement of construction, or at the time of filing an application for a loan or loan guarantee if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

Ante, pp. 654, 658, 662.

40 USC 276a note.

5 USC app.

(d) The securities laws of the United States as defined in section 21(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(g)) shall apply to the Corporation as if it were an agency or instrumentality of the United States.

(e) The antitrust laws, as defined in section 12 of title 15, United States Code, shall apply to the Corporation as if it were an agency of the United States.

(f) The Government Corporation Control Act (31 U.S.C. 841 et seq.) shall not apply with respect to the Corporation.

(g) Except to the extent expressly provided herein, the Corporation shall not be deemed to be an agency of the United States or an instrumentality of the United States.

(h) The Longshoremen's and Harbor Workers' Compensation Act shall apply with respect to the injury and disability or death resulting from injury as defined in section 2(2) of such Act occurring to any Director, officer, or employee of the Corporation.

33 USC 902.

(i) Nothing in this part shall be deemed to limit the powers of the Energy Mobilization Board with respect to a synthetic fuel project or synthetic fuel project module receiving financial assistance under this part or Corporation construction projects.

(j)(1) For purposes of section 211(b) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3300), a petitioner under such section shall be deemed to have made the demonstrations required by section 211(b)(1) and section 211(b)(2) of such Act if he has entered into a legally valid agreement with a qualified producer of synthetic fuel for the future delivery of sufficient quantities of synthetic fuel to be used at the facility for which the exemption is sought. The submission to the Secretary of Energy of evidence of the existence of such a legally valid agreement also shall be deemed to satisfy the requirement of section 211(b) of such Act that the petitioner file and maintain a compliance plan satisfying the requirements of section 214(b) of such Act.

42 USC 8321.

(2) For purposes of paragraph (1), a person shall be deemed to be a "qualified producer of synthetic fuel" if he received financial assistance in the form of a loan, loan guarantee, purchase agreement, or price guarantee pursuant to subtitle D.

Ante, p. 654.

(3) In addition, in order to constitute a "legally valid agreement" for purposes of paragraph (1), the agreement with the qualified synthetic fuel producer must provide for the initial delivery of synthetic fuel within the period of time during which such facility is exempted pursuant to section 211(e) of such Act.

94 STAT. 678

PUBLIC LAW 96-294—JUNE 30, 1980

42 USC 8321. (4) For purposes of section 211(b) of such Act, an extension or renewal under section 211(e)(1) of such Act or section 211(e)(2)(B) of such Act may be granted at the time the original exemption is issued or at any subsequent date.

42 USC 8311. (5) Nothing in this subsection shall be construed to relieve the petitioner from compliance with subtitle A of title II of the Power-plant and Industrial Fuel Use Act of 1978.

50 USC app. 2061. (k) This part shall not affect any authority contained in the Defense Production Act of 1950.

SEVERABILITY

42 USC 8776. SEC. 176. If any provision of this part, or the application of any such provision to any person or circumstance, shall for any reason be adjudged by any court of competent jurisdiction to be invalid, the remainder of this part, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

FISCAL YEAR, AUDITS AND REPORTS

42 USC 8777. SEC. 177. (a) The fiscal year of the Corporation shall coincide with the fiscal year of the United States Government.

(b)(1) The Corporation shall retain a firm or firms of nationally recognized public accountants who shall prepare, in accordance with generally accepted accounting principles, and report an annual audit of the accounts of the Corporation including statements of the type required in section 106 of the Government Corporation Control Act (31 U.S.C. 851).

(2) The General Accounting Office is authorized to conduct such audits of the accounts of the Corporation and to report upon the same to the Congress, as the General Accounting Office shall deem necessary or as the Congress may request, but not less than every three years.

(3) All books, accounts, financial records, reports, files, papers, and property belonging to or in use by the Corporation shall be made available to the person or persons conducting the audit for verifying transactions.

(c)(1) The Corporation shall submit quarterly reports to the Congress and the President. Each report will state the aggregate sums then outstanding or committed for financial assistance under subtitle D and for Corporation construction projects under subtitle E, and a summary of any financial assistance retired or any synthetic fuel project liquidated by the Corporation pursuant to subtitle I. Each report shall contain a list of the concerns receiving financial assistance involved in Corporation construction projects.

(2) The quarterly report in which any expenditure or commitment to a concern or synthetic fuel project is first noted shall contain a brief description of the factors considered by the Corporation in making such expenditure or commitment. The report shall include (A) financial statements prepared in accordance with generally accepted accounting principles, consistently applied, as of the end of the Corporation's fiscal quarter preceding the date of the report and (B) compensation of persons employed or under contract by the Corporation at salary rates exceeding \$2,500 per month.

(d)(1) Not later than 120 days after the end of each fiscal year, the Corporation shall submit to the Congress and the President an

annual report containing, in addition to the information required in the quarterly report required under subsection (c)(2), (A) a general description of the Corporation's operations during the year, (B) a specific description of each synthetic fuel project in which the Corporation is involved, (C) a status report on each such project, and (D) an evaluation of the contribution which the project has made and is expected to make in fulfilling the purposes of this title (including, where possible, a precise statement of the amount of domestic energy produced or to be produced thereby).

(2) The annual report shall describe progress made toward meeting the purposes (including the national synthetic fuel production goal established in section 125) of this title and contain specific recommendations on what actions the Congress could take in order to facilitate the work of the Corporation in achieving the purposes of this title. The annual report shall address the environmental impacts of the Corporation's generic programs and decisions.

Ante, p. 644.

(3) The annual report shall contain financial statements prepared by the Corporation in accordance with generally accepted accounting principles, consistently applied, and certified by the accountants retained under section (b)(1).

(e) On or before September 30, 1990, the Corporation shall submit to the Congress and the President a report evaluating the overall impact made by the Corporation and describing the status of each then current synthetic fuel project. This report shall contain a liquidation plan. The liquidation plan shall describe how each synthetic fuel project, and every substantial asset or liability of the Corporation, will be liquidated, terminated, satisfied, sold, transferred, or otherwise disposed of. Each annual report thereafter made by the Corporation will describe the progress made in carrying out such liquidation plan.

WATER RIGHTS

Sec. 178. (a) Nothing in this part shall (1) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States, or (3) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

42 USC 8778.

(b) No project constructed pursuant to the authorities of this part shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

WESTERN HEMISPHERE PROJECTS

Sec. 179. (a) The Corporation is authorized to transmit a Corporation synthetic fuel action under section 128 relating to an award of financial assistance pursuant to subtitle D for not to exceed two synthetic fuel projects located in the Western Hemisphere outside the United States. If such Corporation synthetic fuel action is not disapproved by either House during the period specified in section 128, the Corporation shall be authorized to award such financial assistance.

42 USC 8779.

Ante, p. 650.

Ante, p. 654.

(b) The Corporation may use the authority of subsection (a) if the Corporation determines that—

(1) the project will use a class of resource that is located in the United States but that such class of resource will not be subject to

timely commercial production in the United States even if the Corporation provided financial assistance;

(2) the project will receive financial assistance from the government of the country in which the project is located;

(3) the synthetic fuel produced by such project will be available to users in the United States in quantities the Corporation determines to be equitable considering the nature and amounts of financial assistance; and

(4) all technology, patents, and trade secrets developed in connection with such project shall be available to citizens of the United States through rights in the Corporation or through licensing at reasonable cost for use in the United States.

(c) There is authorized for the purpose of this section not to exceed 10 percent of the aggregate obligational authority under section 152(a). Such authorization shall terminate upon approval of the comprehensive production strategy pursuant to section 126(c).

Ante, p. 644.

COMPLETION GUARANTEE STUDY

42 USC 8780.

SEC. 180. The Corporation shall conduct a study of supplemental financial protection for lenders including completion guarantees and other mechanisms to ascertain the desirability of employing such mechanisms to enlarge the number of potential participants in the synthetic fuel development program. A report on such study and recommendations based thereon shall be included in the comprehensive strategy submitted under section 126(b).

Report and recommendations.

SUBTITLE I—DISPOSAL OF ASSETS

TANGIBLE ASSETS

42 USC 8781.

SEC. 181. (a)(1) The Corporation, by and through its Board of Directors, is authorized, from time to time, on the basis of the criteria of subsection (b), to dispose of any portion or all of the tangible assets of the Corporation when such disposal is in the best interests of the Corporation for purposes of carrying out the provisions of this part either—

(A) on the basis of competitive bids, by selling to any person or concern any portion of the assets of the Corporation; or

(B) by transferring to a Federal agency of any portion or all of the tangible assets of the Corporation; or

(C) on the basis of a negotiated contract, consistent with paragraph (2), by selling to a person or concern any portion or all of the tangible assets of the Corporation.

(2) With regard to the sale of tangible assets pursuant to subsection (a)(1)(C), the Corporation shall—

(A) publish in the Federal Register notice of the proposed sale of such asset;

(B) convene a prospective bidders conference; and

(C) no earlier than thirty days after such notice and conference, undertake negotiations for the sale of such asset.

(3) At least thirty days prior to the disposal of any tangible asset pursuant to paragraph (1), the Corporation shall notify the President, the Senate Committee on Energy and Natural Resources and the Speaker of the House of Representatives of the intended disposal of such tangible asset.

Notice.
Publication in
Federal
Register.

Notification to
President,
Senate
committee and
Speaker of the
House.

(b) For the purpose of this section, the term "tangible asset" means any single asset, or aggregation of assets, with a value of \$1,000,000 or more. "Tangible asset."

(c) In establishing the acceptable terms and conditions of the sale or transfer of tangible assets constituting a synthetic fuel project, or portion thereof, or a Corporation construction project, or portion thereof, the Board of Directors shall make every reasonable effort—

(1) to recover the financial investment, if any, of the Corporation in such assets;

(2) to foster competition within the industry to which the assets are to be sold; and

(3) to assure that such assets will be productively utilized and, if possible, will continue in operation.

(d) With regard to the sale or transfer of tangible assets not included under subsection (c), the Corporation shall establish terms and conditions for the sale or transfer of such tangible assets in order to achieve the greatest financial return to the Corporation.

DISPOSAL OF OTHER ASSETS

Sac. 182. Except as provided for in section 181, the Corporation is authorized, from time to time, (1) consistent with the requirements of the Federal Property and Administrative Services Act, to sell to any person any portion of the assets of the Corporation, or (2) transfer to a Federal agency any portion or all of the assets of the Corporation. 42 USC 8782.

SUBTITLE J—TERMINATION OF CORPORATION

DATE OF TERMINATION

Sac. 191. Notwithstanding any other provision of this title— 42 USC 8791.

(1) the Corporation shall make no new awards or commitments for financial assistance under subtitle D for synthetic fuel projects after September 30, 1992; and

Ante, p. 654.

(2) the Corporation shall terminate on September 30, 1997: *Provided, however*, That the President, on recommendation of the Board of Directors, may by Executive order terminate the Corporation at an earlier date, but in no event prior to September 30, 1992.

TERMINATION OF THE CORPORATION'S AFFAIRS

Sac. 192. (a) On and after the final commitment date under section 191(1), the Board of Directors shall diligently commence all practical and reasonable steps to achieve an orderly termination of the Corporation's affairs on or prior to its date of termination pursuant to section 191(2). 42 USC 8792.

(b) The steps taken pursuant to subsection (a) may include the disposal of the tangible assets of the Corporation pursuant to section 181 and the disposal of other assets pursuant to section 182.

(c) On termination of the Corporation, any contract or obligation for financial assistance pursuant to subtitle D shall be administered pursuant to section 193.

TRANSFER OF POWERS TO DEPARTMENT OF THE TREASURY

Sac. 193. (a) If, on the date of termination of the Corporation, its Board of Directors shall not have completed the termination of its 42 USC 8793.

affairs and the liquidation of its assets pursuant to subtitle I, the duty of completing such winding up of its affairs and liquidation shall be transferred to the Secretary of the Treasury, who for such purposes shall succeed to all the powers, duties, rights, and obligations of the Corporation, its Board of Directors and Chairman under this part and nothing herein shall be construed to affect any right or privilege accrued, any penalty or liability incurred, any criminal or civil proceeding commenced, or any authority conferred hereunder, except as herein specifically provided in connection with such termination of the affairs and liquidation of the remaining assets of the Corporation. Following such transfer, the Secretary of the Treasury may assign to any officer or officers of the United States in the Treasury Department the exercise and performance, under such Secretary's general supervision and direction, of any powers, duties, rights, and obligations so transferred from the Corporation to the Secretary.

(b) When the Secretary of the Treasury finds that the liquidation of any remaining assets will no longer be advantageous to the United States and that all of the legal obligations of the Corporation have been provided for, the Secretary shall pay into the general fund of the Treasury as miscellaneous receipts the unused balance of the moneys belonging to the Corporation and shall make a final report on the Corporation to the Congress. Thereupon the Corporation shall be deemed to be dissolved.

SUBTITLE K—DEPARTMENT OF THE TREASURY

AUTHORIZATIONS

42 USC 8795.

SEC. 195. (a)(1)(A) There is hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes and other obligations of the Corporation, \$20,000,000,000—

(i) plus such sums, if any, as are authorized pursuant to section 126; and

(ii) less such sums—

(I) as are obligated for purposes of carrying out the provisions of section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation incurred before such date under such section, up to a maximum of \$3,000,000,000; and

(II) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974 (Public Law 93-577, 42 U.S.C. 5901), up to a maximum of \$2,208,000,000.

(B) Such moneys shall be deposited in the Energy Security Reserve established in the Treasury of the United States by the Department of the Interior and Related Agencies Appropriation Act, 1980 (93 Stat. 954; Public Law 96-126), which account, and the appropriations therefor, shall be available to the Secretary of the Treasury for the purpose of carrying out the purposes of this title. The appropriations and authorities provided for alternative fuels production in such appropriations Act are hereby authorized without fiscal year limitation.

Ante, p. 619.

(2) On the basis of each notification by the Corporation made pursuant to section 131(k)(2) to the Secretary of the Treasury of an award of financial assistance by the Corporation, and consistent with the provisions of section 152, the Secretary of the Treasury shall reserve within the Energy Security Reserve an amount equal to the amount determined pursuant to section 131(k)(1).

(3) Upon receipt of notification from the Corporation under section 131(k)(2), the Secretary of the Treasury, within 15 calendar days, shall certify to the Corporation that the amount required by paragraph (2) has been reserved within the Energy Security Reserve.

(b) For purposes of purchasing the obligations of the Corporation pursuant to subsection (a), the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act (81 U.S.C. 752 et seq.), and the purposes for which securities may be issued under such Act are extended to include such purchases.

(c) All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

TITLE II—BIOMASS ENERGY AND ALCOHOL FUELS

SHORT TITLE

Sec. 201. This title may be cited as the "Biomass Energy and Alcohol Fuels Act of 1980".

FINDINGS

Sec. 202. The Congress finds that—

(1) the dependence of the United States on imported petroleum and natural gas must be reduced by all economically and environmentally feasible means, including the use of biomass energy resources; and

(2) a national program for increased production and use of biomass energy that does not impair the Nation's ability to produce food and fiber on a sustainable basis for domestic and export use must be formulated and implemented within a multiple-use framework.

DEFINITIONS

Sec. 203. As used in this title—

(1) The term "alcohol" means alcohol (including methanol and ethanol) which is produced from biomass and which is suitable for use by itself or in combination with other substances as a fuel or as a substitute for petroleum or petrochemical feedstocks.

(2)(A) The term "biomass" means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, animal wastes, municipal wastes, and aquatic plants.

(B) For purposes of subtitle A, such term does not include municipal wastes; and for purposes of subtitle C, such term does not include aquatic plants and municipal wastes.

(3) The term "biomass fuel" means any gaseous, liquid, or solid fuel produced by conversion of biomass.

(4) The term "biomass energy" means—

(A) biomass fuel; or

Biomass Energy
and Alcohol
Fuels Act of
1980.

42 USC 8801
note.

42 USC 8801.

42 USC 8802.

(B) energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat.

(5) The term "biomass energy project" means any facility (or portion of a facility) located in the United States which is primarily for—

(A) the production of biomass fuel (and byproducts); or

(B) the combustion of biomass for the purpose of generating industrial process heat, mechanical power, or electricity (including cogeneration).

(6) The term "Btu" means British thermal unit.

(7) The term "cogeneration" means the combined generation by any facility of—

(A) electrical or mechanical power, and

(B) steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes.

(8) The term "cooperative" means any agricultural association, as that term is defined in section 15(a) of the Act of June 15, 1929, as amended (46 Stat. 18; 12 U.S.C. 1141j), commonly known as the Agricultural Marketing Act.

(9)(A) The term "construction" means—

(i) the construction or acquisition of any biomass energy project;

(ii) the conversion of any facility to a biomass energy project; or

(iii) the expansion or improvement of any biomass energy project which increases the capacity or efficiency of that facility to produce biomass energy.

(B) Such term includes—

(i) the acquisition of equipment and machinery for use in or at the site of a biomass energy project; and

(ii) the acquisition of land and improvements thereon for the construction, expansion, or improvement of such a project, or the conversion of a facility to such a project.

(C) Such term does not include the acquisition of any facility which was operated as a biomass energy project before the acquisition.

(10) The term "Federal agency" means any Executive agency, as defined in section 105 of title 5, United States Code.

(11)(A) The term "financial assistance" means any of the following forms of financial assistance provided under this title, or any combination of such forms:

(i) loans,

(ii) loan guarantees,

(iii) price guarantees, and

(iv) purchase agreements.

(B) Such term includes any commitment to provide such assistance.

(12) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(13) The term "motor fuel" means gasoline, kerosene, and middle distillates (including diesel fuel).

(14)(A) The term "municipal waste" means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse—

(i) from any publicly or privately operated municipal waste collection or similar disposal system, or

(ii) from similar waste flows (other than such flows which constitute agricultural wastes or residues, or wood wastes or residues from wood harvesting activities or production of forest products).

(B) Such term does not include any hazardous waste, as determined by the Secretary of Energy for purposes of this title.

(15)(A) The term "municipal waste energy project" means any facility (or portion of a facility) located in the United States primarily for—

(i) the production of biomass fuel (and byproducts) from municipal waste; or

(ii) the combustion of municipal waste for the purpose of generating steam or forms of useful energy, including industrial process heat, mechanical power, or electricity (including cogeneration).

(B) Such term includes any necessary transportation, preparation, and disposal equipment and machinery for use in or at the site of the facility involved.

(16) The term "Office of Alcohol Fuels" means the Office of Alcohol Fuels established under section 220.

(17) The term "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any State or local government (including any special purpose district or similar governmental unit) or any agency or instrumentality thereof, or any Indian tribe or tribal organization.

(18) The term "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(19) The term "small scale biomass energy project" means a biomass energy project with an anticipated annual production capacity of not more than 1,000,000 gallons of ethanol per year, or its energy equivalent of other forms of biomass energy.

FUNDING FOR SUBTITLES A AND B

Sec. 204. (a) To the extent provided in advance in appropriation Acts, for the two year period beginning October 1, 1980, there is authorized to be appropriated and transferred \$1,450,000,000 from the Energy Security Reserve established in the Treasury of the United States under title II of the Act entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes" (Public Law 96-126; 93 Stat. 970) and made available for obligation by such Act only to the extent provided in advance in appropriation Acts, as follows:

Appropriation
authorization.
42 USC 8803.

(1) \$600,000,000 to the Secretary of Agriculture for carrying out activities under subtitle A, except of the amount of the financial assistance provided by the Secretary of Agriculture under subtitle A, up to one-third shall be for small-scale biomass energy projects;

(2) \$600,000,000 to the Secretary of Energy for carrying out biomass energy activities under subtitle A, of which at least \$500,000,000 shall be available to the Office of Alcohol Fuels for carrying out its activities, and any amount not made available to the Office of Alcohol Fuels shall be available to the Secretary to carry out the purposes of subtitle A under available authorities of the Secretary, including authorities under subtitle A; and

(3) \$250,000,000 shall be available to the Secretary of Energy for carrying out activities under subtitle B.

(b) Funds made available under subsection (a) shall remain available until expended.

(c)(1) For purposes of determining the amount of such appropriations which remain available for purposes of this title—

(A) loans shall be counted at the initial face value of the loan;

(B) loan guarantees shall be counted at the initial face value of such loan guarantee;

(C) price guarantees and purchase agreements shall be counted at the value determined by the Secretary concerned as of the date of each such contract based upon the Secretary's determination of the maximum potential liability of the United States under the contract; and

(D) any increase in the liability of the United States pursuant to any amendment or other modification to a contract for a loan, loan guarantee, price guarantee, or purchase agreement, shall be counted to the extent of such increase.

(2) Determinations under paragraph (1) shall be made in accordance with generally accepted accounting principles, consistently applied.

(3) If more than one form of financial assistance is to be provided to any one project, the obligations and commitments thereunder shall be counted at the maximum potential exposure of the United States on such project at any time during the life of such project.

(4) Any commitment to provide financial assistance shall be treated the same as such assistance for purposes of this subsection; except that any such commitment which is nullified or voided for any reason shall not be considered for purposes of this subsection.

(d) Financial assistance may be provided under this title only to the extent provided in advance in appropriation Acts.

COORDINATION WITH OTHER AUTHORITIES AND PROGRAMS

42 USC 8804.

SEC. 205. The authorities in this title are in addition to and do not modify (except to the extent expressly provided for in this title) authorities and programs of the Department of Energy and of the Department of Agriculture under other provisions of law.

SUBTITLE A—GENERAL BIOMASS ENERGY DEVELOPMENT

BIOMASS ENERGY DEVELOPMENT PLANS

Transmittal to
President and
Congress.
42 USC 8811.

SEC. 211. (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture and the Secretary of Energy

shall jointly prepare, and transmit to the President and the Congress, a plan for maximizing in accordance with this subtitle biomass energy production and use. Such plan shall be designed to achieve a total level of alcohol production and use within the United States of at least 60,000 barrels per day of alcohol by December 31, 1982.

(b)(1) Not later than January 1, 1982, the Secretary of Agriculture and the Secretary of Energy shall jointly prepare, and transmit to the President and the Congress, a comprehensive plan for maximizing in accordance with this subtitle biomass energy production and use, for the period beginning January 1, 1983, and ending December 31, 1990. Such plan shall be designed to achieve a level of alcohol production within the United States equal to at least 10 percent of the level of gasoline consumption within the United States as estimated by the Secretary of Energy for the calendar year 1990.

Transmittal to President and Congress.

(2) The plan prepared under this subsection shall evaluate the feasibility of reaching the goals set forth in such subsection.

Evaluation.

(c) The plans prepared under subsections (a) and (b) shall each include guidelines for use in awarding financial assistance under this subtitle which are designed to increase, during the period covered by the plan, the amount of motor fuel displaced by biomass energy.

Guidelines for financial assistance.

PROGRAM RESPONSIBILITY AND ADMINISTRATION; EFFECT ON OTHER PROGRAMS

Sec. 212. (a)(1) Except as provided in paragraph (2), in the case of any financial assistance under this subtitle for a biomass energy project, the Secretary concerned shall be—

42 USC 8812.

(A) the Secretary of Agriculture, in the case of any biomass energy project which will have an anticipated annual production capacity of less than 15,000,000 gallons of ethanol (or the energy equivalent of other forms of biomass energy) and which will use feedstocks other than aquatic plants; and

(B) the Secretary of Energy, in the case of any biomass energy project which will use aquatic plants as feedstocks or which will have an anticipated annual production capacity of 15,000,000 gallons or more of ethanol (or the energy equivalent of other forms of biomass energy).

(2)(A) Either the Secretary of Agriculture or the Secretary of Energy may be the Secretary concerned in the case of any biomass energy project which will have an anticipated annual production capacity of 15,000,000 gallons or more of ethanol (or the energy equivalent of other forms of biomass energy) and—

(i) which will use wood or wood wastes or residue, or

(ii) which is owned and operated by a cooperative and will use feedstocks other than aquatic plants.

(B) Financial assistance may not be provided by either Secretary under subparagraph (A) without the written concurrence of the other Secretary. Such concurrence shall be granted or denied by such Secretary in accordance with subparagraph (C) and on the same standards as that Secretary applies in making his own awards of financial assistance under this paragraph.

(C)(i) In the case of a project described in subparagraph (A), the Secretary concerned shall provide the other Secretary a copy of the application and such supporting information as may be material, and shall provide the other Secretary at least 15 days to review the project. If during such 15-day period the reviewing Secretary provides written notification to the Secretary concerned specifying reasons

Review of project.

Reapplication
for financial
assistance.

why such project should not proceed, the Secretary concerned shall defer the final decision on the application for an additional 30 days. During such 30-day period, both Secretaries shall attempt to reach agreement regarding all issues raised in the written notice. Before the end of the 30-day period, the reviewing Secretary shall notify the Secretary concerned of his decision regarding concurrence. If the reviewing Secretary fails to provide such notice before the end of such period, concurrence shall be deemed to have been given.

(ii) The project applicant may reapply for financial assistance for such project, after making such modifications to the project as may be necessary to address issues raised by the reviewing Secretary in the original notice of objection. The subsequent review of such project by the reviewing Secretary shall be limited to the issues originally raised by the reviewing Secretary and any issues raised by changed circumstances.

(D) Both Secretaries may jointly act as the Secretary concerned in accordance with such procedures as the Secretaries may jointly prescribe, in which case—

(i) subparagraphs (B) and (C) and subsection (c) shall not apply, and

(ii) the proportion of financial assistance provided by each Secretary shall be determined in accordance with the procedures jointly prescribed.

(b)(1) Each Secretary shall take such action as may be necessary to assure that—

(A) guidelines for soliciting and receiving applications for financial assistance are established within 90 days after the date of the enactment of this Act;

(B) applications for financial assistance for biomass energy projects are initially solicited within 30 days after such guidelines are established;

(C) additional applications for financial assistance are solicited within 1 year after the date of the initial solicitation;

(D) any application is evaluated and a decision made on such application within 120 days after the receipt of the application, including review under subsections (a)(2)(C), (a)(2)(D), or (c); and

(E) all interested persons are provided the easiest possible access to the application process, including procedures which assure that—

(i) information concerning financial assistance from either Secretary is available through all appropriate offices of the Department of Agriculture and the Department of Energy, and other regional and local offices of the Federal Government, as may be appropriate;

(ii) all such locations where such information is available will be able to accept and file applications, and will forward them to the Secretary concerned; and

(iii) the procedures established for accepting, evaluating, and awarding financial assistance will provide for categories of biomass energy projects, according to size and provide to the maximum extent practicable the simplest procedures for small producers.

(2) The procedural requirements of subparagraphs (A) through (D) of paragraph (1) shall not apply to either Secretary to the extent that the Secretary finds that other procedures are adopted for the solicitation, evaluation, and awarding of financial assistance which will result in applications being processed more expeditiously.

(c)(1) After evaluating any application and before awarding any financial assistance on the basis of that application, the Secretary concerned shall provide the other Secretary with—

(A) a copy of the application and such supporting material as may be appropriate, and

(B) an opportunity of not less than 15 days to review the application.

This subsection shall not apply in the case of a project subject to review under subsection (a)(2)(C).

(2) If the reviewing Secretary provides written notice specifying any issues regarding matters subject to the Secretary's review to the Secretary concerned before the end of the 15-day review period, the Secretary concerned shall defer a final decision on the application for an additional 30 days to provide an opportunity for both Secretaries to answer and resolve such issues. At the expiration of the 30-day period, the Secretary concerned may make a final decision with respect to the application, using the best judgment of the Secretary concerned to resolve any remaining issues.

(3) Reviews of projects under the provisions of subsection (a)(2)(C) or paragraph (1)(B) by the Secretary of Agriculture shall be for the purpose of considering the national, regional, and local agricultural policy impacts of such project on agricultural supply, production, and use, and reviews by the Secretary of Energy under such provisions shall be for the purpose of considering national energy policy impacts and the technical feasibility of the project.

(4) The Secretary of Agriculture and the Secretary of Energy may jointly establish categories of projects to which paragraphs (1) and (2) shall not apply. Within 90 days after the date of the enactment of this Act, the Secretaries shall identify potential categories and make an initial determination of exempted categories.

(d) If any application for financial assistance under this subtitle is disapproved, the applicant shall be provided written notice of the reasons for the disapproval.

Notice of
disapproval.

(e)(1) The functions assigned under this subtitle to the Secretary of Agriculture may be carried out by any of the administrative entities in the Department of Agriculture which the Secretary of Agriculture may designate. Within 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall make such designations and notify the Congress of the administrative entity or entities so designated and the officials in such administrative entity or entities who are to be responsible for such functions.

Administrative
entities.

Notification to
Congress.

(2) The Secretary of Agriculture may issue such regulations as are necessary to carry out functions assigned to the Secretary of Agriculture under this subtitle.

Regulations.

(3) The entities or entity designated under paragraph (1) shall coordinate the administration of functions assigned to it under this subsection with any other biomass energy programs within the Department of Agriculture established under other provisions of law.

(f) The functions under this subtitle which are assigned to the Secretary of Energy and which relate to alcohol production shall be carried out by the Office of Alcohol Fuels.

(g) For purposes of this subtitle, the quantity of any biomass energy which is the energy equivalent to 15,000,000 gallons of ethanol shall be prescribed jointly by the Secretary of Agriculture and the Secretary of Energy within 30 days after the date of the enactment of this Act.

INSURED LOANS

42 USC 8813.

SEC. 213. (a) Subject to sections 212 and 217, the Secretary of Agriculture may commit to make, and make, insured loans in amounts not to exceed \$1,000,000 per project for the construction of small-scale biomass energy projects.

(b)(1) Any insured loan under this section—

(A) may not exceed 90 per centum of the total estimated cost of construction of the biomass energy project involved, and

(B) shall bear interest at rates determined by the Secretary of Agriculture, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed one per centum, as determined by the Secretary of Agriculture, and adjusted to the nearest one-eighth of one per centum.

(2) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Agriculture, the Secretary may in addition, upon application therefor, make an insured loan for so much of the additional estimated total costs as does not exceed 10 per centum of the total costs initially estimated.

7 USC 1929.

7 USC 1929a.

(c)(1) The Secretary of Agriculture shall make insured loans under this section using, to the extent provided in advance in appropriations Acts, the Agricultural Credit Insurance Fund in section 809 of the Consolidated Farm and Rural Development Act or the Rural Development Insurance Fund in section 309A of such Act (hereinafter in this section referred to as the "Funds"). The Secretary of Agriculture may not use an aggregate amount of funds to make or commit to make insured loans under this section in excess of the aggregate amount for insured loans and administrative costs appropriated and transferred under section 204. The terms, conditions, and requirements applicable to such insured loans shall be in accordance with this subtitle.

Terms and
conditions.

(2) There shall be reimbursed to the Funds, from appropriations made under section 204, amounts equal to the operating and administrative costs incurred by the Secretary of Agriculture in insuring loans under this section.

7 USC 1921 note.

(3) Notwithstanding any provision of the Consolidated Farm and Rural Development Act, no funds made available to the Secretary of Agriculture under this section for insured loans shall be used for any other purpose.

"Insured loan."

(4) For purposes of this section, the term "insured loan" means a loan which is made, sold, and insured.

(d) An insured loan may not be made under this section unless the applicant for such loan has established to the satisfaction of the Secretary that the applicant is unable without such a loan to obtain sufficient credit elsewhere at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms for loans for similar purposes and periods of time, to finance the construction of the biomass energy project for which such loan is sought.

LOAN GUARANTEES

42 USC 8814.

SEC. 214. (a) Subject to sections 212 and 217, the Secretary concerned may commit to guarantee, and guarantee, against loss of

principal and interest, loans which are made to provide funds for the construction of biomass energy projects.

(b)(1) Any guarantee of a loan under this section may not exceed 90 per centum of the cost of the construction of the biomass energy project involved, as estimated by the Secretary on the date of the guarantee or commitment to guarantee.

(2) In the event the construction costs of the project are thereafter estimated by the Secretary concerned to exceed the construction costs initially estimated by the Secretary, the Secretary may in addition, upon application therefor, guarantee, against loss of principal and interest, a loan for up to 60 per centum of the difference between the construction costs then estimated and the construction costs initially estimated.

(c) Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law (except as may be specifically provided by reference to this subsection in any Act enacted after the date of the enactment of this Act), no debt obligation which is guaranteed or committed to be guaranteed by the Secretary of Agriculture or the Secretary of Energy under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency.

(d) The terms and conditions of loan guarantees under this section shall provide that, if the Secretary concerned makes a payment of principal or interest upon the default by a borrower, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements).

Terms and conditions.

(e) Any loan guarantee under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof and shall be conclusive evidence that such guarantee complies fully with the provisions of this title and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

(f) If the Secretary concerned determines that—

(1) the borrower is unable to meet payments and is not in default,

(2) it is in the public interest to permit the borrower to continue with such project, and

(3) the probable net benefit to the United States in paying the principal and interest due under the loan will be greater than that which would result in the event of a default,

then the Secretary may pay to the lender under a loan guarantee agreement an amount not greater than the principal and interest which the borrower is obligated to pay to such lender, if the borrower agrees to reimburse the Secretary for such payment on terms and conditions, including interest, which the Secretary determines are sufficient to protect the financial interests of the United States.

Payment to lender, conditions.

(g)(1) A loan may not be guaranteed under this section unless the applicant for such loan has established to the satisfaction of the Secretary concerned that the lender is not willing without such a guarantee to extend credit to the applicant at reasonable rates and terms, taking into consideration prevailing rates and terms for loans for similar purposes and periods of time, to finance the construction of the biomass energy project for which such loan is sought.

(2) The Secretary concerned shall ensure that the lender bears a reasonable degree of risk in the financing of such project.

PRICE GUARANTEES

42 USC 8911

SEC. 215. (a) Subject to sections 212 and 217, the Secretary concerned may commit to guarantee, and guarantee, that the price that the owner or operator of any biomass energy project will receive for all or part of the production from that project shall not be less than a specified sales price determined as of the date of execution of the price guarantee or commitment to guarantee.

(b)(1) No price guarantee under this section may be based upon a cost-plus arrangement, or variant thereof, which guarantees a profit to the owner or operator involved.

(2) The use of a cost-of-service pricing mechanism by a person pursuant to law, or by a regulatory body establishing rates for a regulated person, shall not be deemed to be a cost-plus arrangement, or variant thereof, for purposes of paragraph (1).

(c) Each price guarantee, or commitment to guarantee, which is made under this section shall specify the maximum dollar amount of liability of the United States under that guarantee.

(d) If the Secretary determines, in the discretion of the Secretary, that—

(1) a biomass energy project would not otherwise be satisfactorily completed or continued, and

(2) completion or continuation of such project would be necessary to achieve the purposes of this title, the sales price set forth in the price guarantee, and maximum liability under such guarantee, may be renegotiated.

PURCHASE AGREEMENTS

Conditions.
42 USC 8916.

SEC. 216. (a) Subject to sections 212 and 217, the Secretary concerned may commit to make, and make, purchase agreements for all or part of the biomass energy production of any biomass energy project, if the Secretary determines—

(1) that such biomass energy is of a type, quantity, and quality that can be used by Federal agencies; and

(2) that the quantity of such biomass energy, if delivery is accepted, would not exceed the likely needs of Federal agencies. Each Secretary concerned shall consult with the other Secretary before making any determination under paragraph (2).

(b) The sales price specified in a purchase agreement under this section may not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Secretary concerned determines that such sales price must exceed the estimated prevailing market price in order to ensure the production of biomass energy to achieve the purposes of this title.

Requirements.

(c) The Secretary concerned in entering into, or committing to enter into, a purchase agreement under this section shall require—

(1) assurances that the quality of the biomass energy purchased will meet standards for the use for which such energy is purchased;

(2) assurances that the ordered quantities of such energy will be delivered on a timely basis; and

(3) such other assurances as may reasonably be required.

(d) The Secretary concerned may take delivery of biomass energy pursuant to a purchase agreement under this section if appropriate arrangements have been made for its distribution to and use by one or more Federal agencies. Any Federal agency receiving such energy

shall be charged (in accordance with otherwise applicable law), from sums appropriated to such Federal agency, for the prevailing market price as of the date of delivery, as determined by the Secretary of Energy, for the product which the biomass energy is replacing.

(e) The Secretary concerned shall consult with the Secretary of Defense and the Administrator of the General Services Administration in carrying out this section.

Consultation.

(f) Each purchase agreement, and commitment to enter into a purchase agreement, under this section shall provide that the Secretary concerned retains the right to refuse delivery of the biomass energy involved upon such terms and conditions as shall be specified in the purchase agreement.

Terms and conditions.

(g) Each purchase agreement, or commitment to enter into a purchase agreement, which is made under this section shall specify the maximum dollar amount of liability of the United States under that agreement.

(h) If the Secretary concerned determines, in the discretion of the Secretary, that—

(1) a biomass energy project would not otherwise be satisfactorily completed or continued, and

(2) completion or continuation of such project would be necessary to achieve the purposes of this title,

the sales price set forth in the purchase agreement, and maximum liability under such agreement, may be renegotiated.

GENERAL REQUIREMENTS REGARDING FINANCIAL ASSISTANCE

Sec. 217. (a)(1) Priority for financial assistance under this subtitle, and the most favorable financial terms available, shall be provided to a person for any biomass energy project that—

42 USC 8817.

(A) uses a primary fuel other than petroleum or natural gas in the production of biomass fuel, such as geothermal energy resources, solar energy resources, or waste heat; or

(B) applies new technologies which expand the possible feedstocks, produces new forms of biomass energy, or produces biomass fuel using improved or new technologies.

Nothing in this paragraph shall be construed to exclude financial assistance for any project which does not use such a fuel or apply such a technology.

(2)(A) Financial assistance under this subtitle shall be available for a biomass energy project only if the Secretary concerned finds that the Btu content of the motor fuels to be used in the facility involved to produce the biomass fuel will not exceed the Btu content of the biomass fuel produced in the facility.

(B) In making the determination under subparagraph (A), the Secretary concerned shall take into account any displacement of motor fuel or other petroleum products which the applicant has demonstrated to the satisfaction of the Secretary would result from the use of the biomass fuel produced in the facility involved.

(3) No financial assistance may be provided under this subtitle to any person for any biomass energy project if the Secretary concerned finds that the process to be used by the project will not extract the protein content of the feedstock for utilization as food or feed for readily available markets in any case in which to do so would be technically and economically practicable.

(4) Financial assistance may not be provided under this subtitle to any person unless the Secretary concerned—

(A) finds that necessary feedstocks are available and it is reasonable to expect they will continue to be available in the future, and, for biomass energy projects using wood or wood wastes or residues from the National Forest System, there shall be taken into account current levels of use by then existing facilities;

(B) has obtained assurance that the person receiving such financial assistance will bear a reasonable degree of risk in the construction and operation of the project; and

(C) has determined that the amount of financial assistance provided for the project is not greater than is necessary to achieve the purposes of this title.

(5) In providing financial assistance under this subtitle, the Secretary concerned shall give due consideration to promoting competition.

Byproducts.

(6) In determining the amount of financial assistance for any biomass energy project which will yield byproducts in addition to biomass energy, the Secretary shall consider the potential value of such byproducts and the costs attributable to their production.

Loan repayments.

(b) An insured loan may not be made, and a loan guarantee may not be issued, under this subtitle unless the Secretary concerned determines that the terms, conditions, maturity, security, and schedule and amounts of repayments with respect to such loan are reasonable and meet such standards as the Secretary determines are sufficient to protect the financial interests of the United States.

Application for financial assistance.

(c)(1) No financial assistance may be provided to any person under this subtitle unless an application therefor—

(A) has been submitted to the Secretary concerned by that person in such form and under such procedures as the Secretary shall prescribe, consistent with the requirements of this subtitle, and

(B) has been approved by the Secretary in accordance with such procedures.

(2) Each such application shall include information regarding the construction costs of the biomass energy project involved, and estimates of operating costs and income relating to that project (including the sale of any byproducts from that project). In addition, each applicant shall provide—

(A) access at reasonable times to such other information, and

(B) such assurances, as the Secretary concerned may require.

(d)(1) Every recipient of financial assistance under this subtitle shall, as a condition precedent thereto, consent to such examinations and reports regarding the biomass energy project involved as the Secretary concerned may require.

Reports; recordkeeping requirements.

(2) With respect to each biomass energy project for which financial assistance is provided under this subtitle, the Secretary shall—

(A) require from the recipient of financial assistance such reports and records relating to that project as the Secretary deems necessary;

(B) prescribe the manner in which such recipient shall keep such records; and

(C) have access to such records at reasonable times for the purpose of ensuring compliance with the terms and conditions upon which financial assistance is provided.

(e) All contracts and instruments of the Secretary concerned to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(f) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(g)(1) A fee or fees may be charged and collected by the Secretary concerned for any loan guarantee, price guarantee, or purchase agreement provided under this subtitle. Fees.

(2) The amount of such fee shall be based on the estimated administrative costs and risk of loss, except that such fee may not exceed 1 per centum of the amount of the financial assistance provided.

(h) All amounts received by the Secretary of Agriculture or the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by either Secretary from activities under this subtitle shall be deposited in the Treasury of the United States as miscellaneous receipts. The preceding sentence shall not apply to insured loans made under section 213.

REPORTS

Sec. 218. (a) The Secretary of Agriculture and the Secretary of Energy shall each prepare and submit to the President and the Congress quarterly reports on their activities under this subtitle.

Submittal to Congress.

42 USC 8818.

(b) Within 120 days after the date of enactment of this Act, the Secretary of Energy and the Secretary of Agriculture shall submit to the Congress a comprehensive list of all the types of loans, grants, incentives, rebates, or any other such private, State, or Federal economic or financial benefits now in effect or proposed which can be or have been used for production of alcohol to be used as a motor fuel or petroleum substitute.

List of loans or grants for alcohol production.

(c)(1)(A) The Office of Alcohol Fuels shall submit to the Congress and the President annual reports containing a general description of the Office's operations during the year and a description and evaluation of each biomass energy project for which financial assistance by the Office is then in effect.

(B) Each annual report shall describe progress made toward meeting the goals of this subtitle and contain specific recommendations on what actions the Congress could take in order to facilitate the work of the Office in achieving such goals.

(C) Each annual report under this subsection shall contain financial statements prepared by the Office.

(2) On or before September 30, 1990, the Office shall submit to the Congress and the President a report evaluating the overall impact made by the Office and describing the status of each biomass energy project which has received financial assistance under this subtitle from the Office. Such report shall contain a plan for the termination of the work of the Office.

Termination plan.

REVIEW; REORGANIZATION

Sec. 219. (a) The President shall review periodically the progress of the Secretary of Agriculture and the Secretary of Energy in carrying out the purposes of this subtitle.

42 USC 8819.

(b) If the President determines it necessary in order to achieve such purposes the President may, in accordance with the provisions of

5 USC 501 *et seq.* chapter 9 of title 5, United States Code, provide for a reorganization, including any required realignment of the respective programs of the Secretaries under this subtitle.

ESTABLISHMENT OF OFFICE OF ALCOHOL FUELS IN DEPARTMENT OF ENERGY

42 USC 8820. **SEC. 220.** (a) There is hereby established within the Department of Energy an Office of Alcohol Fuels (hereinafter in this section referred to as the "Office") to be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

44 FR 58678.
Functions.

(b)(1) The Director shall be responsible for carrying out the functions of the Secretary of Energy under this subtitle which relate to alcohol, including the terms and conditions of financial assistance and the selection of recipients for that assistance, subject to the general supervision of the Secretary of Energy.

(2) The Director shall be responsible directly to the Secretary of Energy.

Legislative
recommendation
or testimony,
transmittal to
congressional
committees.

(c) In each annual authorization and appropriation request, the Secretary shall identify the portion thereof intended for the support of the Office and include a statement by the Office (1) showing the amount requested by the Office in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Office. Whenever the Office submits to the Secretary, the President, or the Office of Management and Budget, any formal legislative recommendation or testimony, or comments on legislation, prepared for submission to Congress, the Office shall concurrently transmit a copy thereof to the appropriate committees of Congress.

(d) The Secretary of Energy, after consultation with the Director, shall consult with the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Transportation, the Secretary of Commerce, the Administrator of the Community Services Administration, the Administrator of the Environmental Protection Agency, or their appointed representatives, in order to coordinate the programs under the Director's responsibility with other programs within the Department of Energy and in such Federal agencies, which are related to the production of alcohol.

TERMINATION

42 USC 8821. **SEC. 221.** No insured loan, loan guarantee, price guarantee, or purchase agreement may be committed to or made under this subtitle after September 30, 1984. This section shall not be construed to affect the authority of the Secretary concerned to spend funds after such date pursuant to any contract for financial assistance made on or before that date under this subtitle.

SUBTITLE B—MUNICIPAL WASTE BIOMASS ENERGY

MUNICIPAL WASTE ENERGY DEVELOPMENT PLAN

42 USC 8831.
Consultation
with EPA,
Commerce
Department, and
other Federal
agencies.

SEC. 231. (a) The Secretary of Energy shall prepare a comprehensive plan for carrying out this subtitle. In the preparation of such plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and

the head of such other Federal agencies as the Secretary deems appropriate.

(b) Not later than 90 days after the date of this Act, the Secretary shall transmit to the President and the Congress a statement setting forth—

Transmittal to President and Congress.
Statement.

(c) The comprehensive plan under this section shall include a statement setting forth—

(1) the anticipated research, development, demonstration, and commercialization objectives to be achieved;

(2) the management structure and approach to be adopted to carry out such plan;

(3) the program strategies, including detailed milestone goals to be achieved;

(4) the specific funding requirements for individual program elements and activities, including estimated construction costs of proposed projects; and

(5) the estimated relative financial contributions of the Federal Government and non-Federal parties in the program.

(d) Not later than January 1, 1982, the Secretary shall prepare and submit to the President and the Congress a report containing a complete description of any financial, institutional, environmental, and social barriers to the development and application of technologies for the recovery of energy from nuclear waste.

Report to President and Congress.

CONSTRUCTION LOANS

Sec. 232. (a) Subject to sections 235 and 236, the Secretary of Energy may commit to make, and make, loans for the construction of municipal waste energy projects. 42 USC 8832.

(b)(1) Any loan under this section—

(A) may not exceed 80 per centum of the total estimated cost of the construction of the municipal waste energy project involved, and

(B) shall bear interest at a rate determined by the Secretary of Energy (taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans) plus not to exceed one per centum, as determined by the Secretary of Energy, and adjusted to the nearest one-eighth of one per centum.

(2) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Energy, the Secretary may in addition, upon application therefor, make a loan for so much of the additional estimated costs as does not exceed 10 per centum of the initial total estimated costs of construction.

(c) A loan may not be made under this section unless the person applying for such loan has established to the satisfaction of the Secretary of Energy that the applicant is unable to obtain sufficient credit elsewhere at a reasonable rate of interest taking into consideration prevailing market rates of interest at the time of the application, or which such loan is otherwise not feasible.

GUARANTEED CONSTRUCTION LOANS

42 USC 8833.

SEC. 233. (a) Subject to sections 235 and 236, the Secretary of Energy may commit to guarantee, and guarantee, against loss on up to 90 per centum of the principal and interest, any loan which is made solely to provide funds for the construction of a municipal waste energy project and which does not exceed 90 per centum of the cost of the construction of the project involved, as estimated by the Secretary on the date of the guarantee or commitment to guarantee.

(b) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Energy, the Secretary may in addition, upon application therefor, guarantee, against loss on up to 90 per centum of the principal and interest, a loan for so much of the additional estimated total costs as does not exceed 10 per centum of the total estimated costs.

Terms and
conditions.

(c) The terms and conditions of loan guarantees under this section shall provide that, if the Secretary of Energy makes a payment of principal or interest upon the default by a borrower, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements).

(d) Any loan guarantee under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof and shall be conclusive evidence that such guarantee complies fully with the provisions of this title and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

Payment to
lender,
conditions.

(e) If the Secretary of Energy determines that—

(1) the borrower is unable to meet payments and is not in default,

(2) it is in the public interest to permit the borrower to continue to pursue the purposes of such project, and

(3) the probable net benefit to the United States in paying the principal and interest due under a loan guarantee agreement will be greater than that which would result in the event of a default,

then the Secretary may pay to the lender under a loan guarantee agreement an amount not greater than the principal and interest which the borrower is obligated to pay to such lender, if the borrower agrees to reimburse the Secretary for such payment on terms and conditions, including interest, which the Secretary determines are sufficient to protect the financial interests of the United States.

(f) A loan may not be guaranteed under this section unless the applicant for such loan has established to the satisfaction of the Secretary of Energy that the lender is not willing without such a guarantee to extend credit to the applicant at reasonable rates and terms, taking into consideration prevailing market rates and terms for loans for similar periods of time, to finance the construction of the project for which such loan is sought.

(g)(1) With respect to any loan or debt obligation which is—

(A) issued after the date of the enactment of this Act by, or on behalf of, any State or any political subdivision or governmental entity thereof,

(B) guaranteed by the Secretary of Energy under this section,

and

(C) not supported by the full faith and credit of the issuer as a general obligation of the issuer, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successors in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

(2) With respect to the amount of obligations described in paragraph (1) that the issuer would have been able to issue as tax exempt obligations (other than obligations secured by the full faith and credit of the issuer as a general obligation of the issuer), the Secretary of Energy is authorized to pay only to the issuer any portion of the interest on such obligations, as determined by the Secretary of the Treasury after taking into account the interest rate which would have been paid on the obligations had they been issued as tax exempt obligations without being so guaranteed by the Secretary of Energy and the interest rate actually paid on the obligations when issued as taxable obligations. Such payments shall be made in amounts determined by the Secretary of Energy, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

(b)(1) A fee or fees may be charged and collected by the Secretary of Energy for any loan guarantee under this section. Fee charge.

(2) The amount of such fee shall be based on the estimated administrative costs and risk of loss, except that such fee may not exceed 1 per centum of the maximum of the guarantee.

PRICE SUPPORT LOANS AND PRICE GUARANTEES

Sec. 234. (a)(1) In the case of any existing municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price support loan in amounts determined under paragraph (3) for the operation of such project. Payments under any such loan shall be disbursed on an annual basis, as determined (in accordance with paragraph (3)) on the basis of the amount of biomass energy produced and sold by that project during the 12-month period involved and the type and cost of fuel displaced by the biomass energy sold. 42 USC 8834.

(2)(A) In the case of any support loan under this section for an existing municipal waste energy project—

(i) disbursements under such loan may not be made for more than 5 consecutive 12-month periods;

(ii) the amount of the disbursement for the second and any subsequent 12-month period for which disbursements are to be made under the support loan shall be reduced by an amount determined by multiplying the amount calculated under paragraph (3) by a factor determined by dividing the number of 12-month periods for which disbursements are made under the support loan into the number of such periods which have elapsed;

(iii) commencing at the end of the last of such 12-month periods, the support loan shall be repayable over a period equal to the then remaining useful life of the project (as determined by the Secretary) or 10 years, whichever is shorter; and

(iv) commencing at the end of such last 12-month period, such loan shall bear interest at a rate determined by the Secretary of Energy (taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans) plus not to exceed one per centum, as

determined by the Secretary of Energy, and adjusted to the nearest one-eighth of one per centum.

(3) The amount of the loan payment to be disbursed under this subsection for any year with respect to each type of biomass energy produced and sold by an existing municipal waste energy project shall be equal to—

(A)(i) the standard support price reduced by the cost of the fuel displaced by the biomass energy sold, or (ii) \$2.00, whichever is lower, multiplied by

(B) the amount of such biomass energy sold (in millions of Btu's).

(b)(1) In the case of any new municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price support loan in amounts determined in accordance with the provisions of subsection (a), except as provided in paragraph (2).

(2) In the case of any loan under this subsection for a new municipal waste energy project—

(A) disbursements under such loan may not be made for more than 7 consecutive 12-month periods (with reductions as provided in subsection (a)(2)(A)(ii));

(B) such loan shall bear interest at a rate not in excess of the rate prescribed under subsection (a); and

(C) the principal of or interest on such loan shall, in accordance with the support loan agreement, be repayable, commencing at the end of the last 12-month period covered by the support loan, over a period not in excess of the period equal to the then remaining useful life of the project (as determined by the Secretary) or 15 years, whichever is shorter.

(c)(1) In the case of any new municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price guarantee for the operation of such project which guarantees that the price the owner or operator will receive for all or part of the production from that project shall not be less than a specified sales price determined as of the date of execution of the guarantee agreement.

(2)(A) No price guarantee under this section may be based upon a cost-plus arrangement, or variant thereof, which guarantees a profit to the owner or operator involved.

(B) The use of a cost-of-service pricing mechanism by a person pursuant to law, or by a regulatory body establishing rates for a regulated person, shall not be deemed to be a cost-plus arrangement, or variant thereof, for purposes of subparagraph (A).

(3) In the case of any price guarantee under this subsection for a new municipal waste energy project—

(A) disbursements under such guarantee may not be made for more than 7 consecutive 12-month periods; and

(B) amounts paid under this subsection may be required to be repaid to the Secretary of Energy under such terms and conditions as the Secretary may prescribe, including interest at a rate not in excess of the rate prescribed under subsection (a).

Definitions.

(d) For purposes of this section—

(1) The term "new municipal waste energy project" means any municipal waste energy project which—

(A) is initially placed in service after the date of the enactment of this Act; or

(B) if initially placed in service before such date, has an increased capacity by reason of additional construction, and as such is placed in service after such date.

(2) The term "existing municipal waste energy project" means any municipal waste energy project which is not a new municipal waste project.

(3) The term "placed in service" means operated at more than 50 percent of the estimated operational capacity.

(4)(A) Except as provided in subparagraphs (B) and (C), the term "standard support price" means the average price (per million Btu's) for No. 6 fuel oil imported into the United States on the date of the enactment of this Act, as determined, by rule, by the Secretary of Energy not later than 90 days after the date of the enactment of this Act.

(B) In any case in which the fuel displaced is No. 6 fuel oil or any higher grade of petroleum (as determined by the Secretary of Energy), the term "standard support price" means 125 per centum of the price determined by rule under subparagraph (A).

(C) In any case in which biomass energy produced and sold by a project is steam or electricity, the term "standard support price" means the price determined by rule under subparagraph (A), subject to such adjustments as the Secretary of Energy may authorize by rule.

(5) The term "cost of the fuel displaced" means the cost of the fuel (per million Btu's) which the purchaser of biomass energy would have purchased if the biomass energy had not been available for sale to that purchaser.

(6) Any biomass energy produced by a municipal waste energy project which may be retained for use by the owner or operator of such project shall be considered to be sold at such price as the Secretary of Energy determines.

(7) Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall prescribe, by rule, the manner of determining the fuel displaced by the sale of any biomass energy, and the price of the fuel displaced. Rule.

GENERAL REQUIREMENTS REGARDING FINANCIAL ASSISTANCE

Sec. 235. (a)(1) Priority for financial assistance under the provisions of sections 232, 233, and 234, and the most favorable financial terms available, shall be provided for any municipal waste energy project that will— 42 USC 8835.

(A) produce a liquid fuel from municipal waste; or

(B) will displace petroleum or natural gas as a fuel.

(2)(A) With respect to projects producing biomass energy other than biomass fuel, financial assistance under the provisions of sections 232, 233, and 234 shall be available only if the Secretary of Energy finds that the project does not use petroleum or natural gas except for flame stabilization or start-up. Biomass energy projects.

(B) With respect to projects producing biomass fuel, financial assistance under such provisions shall be available to such project only if the Secretary of Energy finds that the Btu content of the biomass fuel produced substantially exceeds the Btu content of any petroleum or natural gas used in the project to produce the biomass fuel. Btu content.

(3) Financial assistance may not be provided under section 232, 233, or 234 unless the Secretary of Energy finds that necessary municipal

waste feedstocks are available and it is reasonable to expect they will continue to be available for the expected economic life of the project.

(4) In providing financial assistance under section 232, 233, or 234, the Secretary of Energy shall give due consideration to promoting competition.

Byproducts,
value and
production costs.

(5) In determining the amount of financial assistance for any municipal waste energy project which will yield byproducts in addition to biomass energy, the Secretary shall consider the value of such byproducts and the costs attributable to their production.

(6) The Secretary of Energy shall not provide financial assistance under section 232, 233, or 234 for any municipal waste energy unless the Secretary determines—

(A) the project will be technically and economically viable;

(B) the financial assistance provided encourages and supplements, but does not compete with nor supplant, any private capital investment which otherwise would be available to the proposed municipal waste energy project on reasonable terms and conditions which would permit such project to be undertaken;

(C) assurances are provided that the project will not use, in any substantial quantities, waste paper which would otherwise be recycled for a use other than as a fuel and will not substantially compete with facilities in existence on the date of the financial assistance which are engaged in the separation or recovery of reusable materials from municipal waste; and

(D) that the amount of financial assistance provided for the project is not greater than is necessary to achieve the purposes of this title.

(b) Financial assistance may not be provided under section 232, 233, or 234 unless the Secretary of Energy determines that—

(1) the terms, conditions, maturity, security and schedule and amounts of repayments with respect to such assistance are reasonable and meet such standards as the Secretary determines are sufficient to protect the financial interests of the United States; and

(2) the person receiving such financial assistance will bear a reasonable degree of risk with respect to the project.

Application.

(c)(1) No financial assistance may be provided to any person under section 232, 233, or 234 unless an application therefor—

(A) has been submitted to the Secretary of Energy by such person in such form and under such procedures as the Secretary shall prescribe, consistent with the requirements of this subtitle, and

(B) has been approved by the Secretary in accordance with such procedures.

(2) Each such application shall include information regarding the construction costs of the municipal waste energy project involved (if appropriate), and estimates of operating costs and income relating to that project (including the sale of any byproducts from that project). In addition, each applicant shall provide—

(A) access at reasonable times to such other information, and

(B) such assurances,

as the Secretary of Energy may require.

(d)(1) Every person receiving financial assistance under section 232, 233, or 234 shall, as a condition precedent thereto, consent to such examinations and reports thereon regarding the municipal waste energy project involved as the Secretary of Energy may require.

(2) With respect to each municipal waste energy project for which financial assistance is provided under section 232, 233, or 234, the Secretary shall—

(A) require from the recipient of financial assistance such reports and records relating to that project as the Secretary deems necessary;

(B) prescribe the manner in which such recipient shall keep such records; and

(C) have access to such records at reasonable times for the purpose of ensuring compliance with the terms and conditions upon which financial assistance is provided.

(e) All amounts received by the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by the Secretary from operations under section 232, 233, or 234 shall be deposited in the general fund of Treasury of the United States as miscellaneous receipts.

(f) All contracts and instruments of the Secretary of Energy to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(g) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(h) Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law (except as may be specifically provided by reference to this subsection in any Act enacted after the date of the enactment of this Act), no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed by the Secretary of Energy under section 232, 233, or 234 shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency.

FINANCIAL ASSISTANCE PROGRAM ADMINISTRATION

Sec. 236. The Secretary of Energy shall establish procedures and take such other actions as may be necessary regarding the solicitation, review, and evaluation of applications, and awarding of financial assistance under section 232, 233, or 234 as may be necessary to carry out the plan established under section 231. 42 USC 8836.

COMMERCIALIZATION DEMONSTRATION PROGRAM PURSUANT TO FEDERAL NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT ACT OF 1974

Sec. 237. (a)(1) The Secretary of Energy shall establish and conduct, pursuant to the authorities contained in the Federal Nonnuclear Energy Research and Development Act of 1974, an accelerated research, development, and demonstration program for promoting the commercial viability of processes for the recovery of energy from municipal wastes. 42 USC 8837.

(2) The provisions of subsections (d), (m), and (x)(2) of section 19 of such Act shall not apply with respect to the program established under this section. 42 USC 5901 note.

(3) As part of the program established under this section, the Secretary, after consulting with the Administrator of the Environmental Protection Agency and the Secretary of Commerce, shall undertake—

(A) the research, development, and demonstration of technologies to recover energy from municipal wastes;

(B) the development and application of new municipal waste-to-energy recovery technologies;

(C) the assessment, evaluation, demonstration, and improvement of the performance of existing municipal waste-to-energy recovery technologies with respect to capital costs, operating and maintenance costs, total project financing, recovery efficiency, and the quality of recovered energy and energy intensive materials;

(D) the evaluation of municipal waste energy projects for the purpose of developing a base of engineering data that can be used in the design of future municipal waste energy projects to recover energy from municipal wastes; and

(E) research studies on the size and other significant characteristics of potential markets for municipal waste-to-energy recovery technologies, and recovered energy, and energy intensive materials.

Financial
assistance.

(b) Under such program, the Secretary of Energy may provide financial assistance consisting of price supports, loans, and loan guarantees, for the cost of planning, designing, constructing, operating, and maintaining demonstration facilities, and, in the case of existing facilities, modifications of such facilities solely for demonstration purposes, for the conversion of municipal wastes into energy or the recovery of materials.

Priority for
funding.

(c) Priority for funding of activities under subsection (a) and financial assistance under subsection (b) shall be provided for any activity or project for the demonstration of technologies for the production of liquid fuels or biomass energy which substitute for petroleum or natural gas.

(d) The Secretary of Energy may not obligate or expend any funds authorized under this title in carrying out subsection (b) of this section until the plan required under section 231(a) has been prepared and submitted to the Congress.

(e) All amounts received by the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by the Secretary from operations under this section shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

JURISDICTION OF DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION AGENCY

42 USC 8838.
42 USC 5920.

SEC. 238. The provisions of section 20(c) of the Federal Nonnuclear Research and Development Act of 1974, relating to the responsibilities of the Environmental Protection Agency and the Department of Energy, shall apply with respect to actions under this subtitle to the same extent and in the same manner as such provisions apply to actions under section 20 of such Act.

ESTABLISHMENT OF OFFICE OF ENERGY FROM MUNICIPAL WASTE IN DEPARTMENT OF ENERGY

42 USC 8839.

SEC. 239. (a) There is hereby established within the Department of Energy an Office of Energy from Municipal Waste (hereinafter in this section referred to as the "Office") to be headed by a Director, who shall be appointed by the Secretary of Energy.

PUBLIC LAW 96-294—JUNE 30, 1980

94 STAT. 705

(b) It shall be the function of the Office to perform—

(1) the research, development, demonstration, and commercialization activities authorized under this subtitle (including those authorized under section 237), and

(2) such other duties relating to the production of energy from municipal waste as the Secretary of Energy may assign to the Office.

Functions.

(c) In carrying out functions transferred or assigned to the Office, the Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the heads of such other Federal agencies, as appropriate.

Consultation with EPA, Department of Commerce and other Federal agencies.

(d) The Secretary shall provide for the transfer to the Office of the functions relating to, and personnel of the Department who are responsible for the administration of, programs in existence on the date of the enactment of this Act which relate to the research, development, demonstration, and commercialization of technologies for the recovery of energy from municipal waste.

TERMINATION

Sec. 240. No financial assistance may be committed to or made under this subtitle after September 30, 1984. This section shall not be construed to affect the authority of the Secretary of Energy to spend funds after such date pursuant to any award of financial assistance made on or before that date.

42 USC 8840.

SUBTITLE C—RURAL, AGRICULTURAL, AND FORESTRY BIOMASS ENERGY

MODEL DEMONSTRATION BIOMASS ENERGY FACILITIES

Sec. 251. (a) The Secretary of Agriculture shall establish not more than ten model demonstration biomass energy facilities for purposes of exhibiting the most advanced technology available for producing biomass energy. Such facilities and information regarding the operation of such facilities shall be available for public inspection, and, to the extent practicable, such facilities shall be established in various regions in the United States. Such facilities may be established in cooperation with appropriate departments or agencies of the States, or appropriate departments, agencies, or other instrumentalities of the United States.

42 USC 8841.

Public inspection, availability.

Cooperation with State and Federal agencies.

(b) For purposes of carrying out subsection (a), there is authorized to be appropriated \$5,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984.

Appropriation authorization.

BIOMASS ENERGY RESEARCH AND DEMONSTRATION PROJECTS

Sec. 252. Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154) is amended—

(1) by striking out "colleges and universities" the first place it appears and inserting in lieu thereof "colleges, universities, and Government corporations";

(2) by striking out "(2) alcohol made from agricultural commodities and forest products as a substitute for alcohol made from petroleum products," and inserting in lieu thereof the following

new paragraph: "(2) alcohol and other forms of biomass energy as substitutes for petroleum or natural gas,";

(3) by inserting after the first sentence thereof the following: "The authority to conduct research under paragraph (2) does not include authority to conduct research with respect to technology demonstrations of integrated systems for commercialization of technologies for applications other than agricultural or uniquely rural applications. The Secretary may make grants under this subsection to such colleges, universities, and Government corporations for the purpose of conducting research relating to the development of the most economical and commercially feasible means of collecting and transporting wastes, residues, and by-products for use as feedstocks for the production of alcohol and other forms of biomass energy. At least 25 per centum of the amount appropriated in any fiscal year for research under paragraph (2) shall be made available for grants under this subsection for research, relating to the production of alcohol, to identify and develop agricultural commodities, including alfalfa, sweet sorghum, black locust, and cheese whey, which may be suitable for such production. At least 25 per centum of the amount appropriated in any fiscal year for research under paragraph (2) shall be made available for grants under this subsection for research relating to the development of technologies for increasing the energy efficiency and commercial feasibility of alcohol production, including processes of cellulose conversion and cell membrane technology.";

(4) by striking out "section" each place it appears and inserting in lieu thereof "subsection";

(5) by inserting "(a)" after "Sec. 1419.";

tion
ion.

(6) by adding at the end of subsection (a), as so designated, the following new sentence: "In addition to the authorization of appropriations provided in the preceding sentence, there is authorized to be appropriated for grants to conduct research described in paragraph (2) and in the third sentence of this subsection \$12,000,000 for each of the fiscal years ending September 30, 1981; September 30, 1982; September 30, 1983; and September 30, 1984.";

(7) by adding at the end thereof the following new subsection:

a.

"(b) For purposes of subsection (a)—

"(1) the term 'biomass' means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, and animal wastes, except that such term does not include aquatic plants and municipal wastes;

"(2) the term 'biomass energy' means any gaseous, liquid, or solid fuel produced by conversion of biomass, and energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat; and

"(3) the term 'municipal wastes' means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse—

"(i) from any publicly or privately operated municipal waste collection or similar disposal system; or

"(ii) from similar waste flows (other than such flows which constitute agricultural wastes or residues, or wood wastes or

residues from wood harvesting activities or production of forest products).”.

**APPLIED RESEARCH REGARDING ENERGY CONSERVATION AND BIOMASS
ENERGY PRODUCTION AND USE**

SEC. 253. The third sentence of section 1 of the Act of June 29, 1935 (49 Stat. 436; 7 U.S.C. 427), commonly known as the Bankhead-Jones Act, is amended by inserting “applied research to develop agricultural, forestry, and rural energy conservation and biomass energy production and use;” after “irrigation);”.

FORESTRY ENERGY RESEARCH

SEC. 254. Section 3(a) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642(a)) is amended—

- (1) in paragraph (1) by inserting “energy production, activities related to energy conservation,” after “wilderness;” and
- (2) in paragraph (4) by inserting “producing and conserving energy;” after “wood fiber;”.

BIOMASS ENERGY EDUCATIONAL AND TECHNICAL ASSISTANCE

SEC. 255. (a) Subtitle B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121-3128) is amended by adding at the end thereof the following new section:

**“BIOMASS ENERGY EDUCATIONAL AND TECHNICAL
ASSISTANCE PROGRAMS**

“SEC. 1413A. (a) The Secretary, in cooperation with State directors of cooperative extension, administrators of extension for land-grant colleges and universities, State foresters or equivalent State officials, and the heads of other Federal departments and agencies, shall provide educational programs for producers of agricultural commodities, wood, and wood products to— 42 USC 3129.

“(1) inform such producers of the feasibility of using biomass for energy;

“(2) disseminate to such producers information regarding the results of research regarding the use of biomass for energy;

“(3) inform such producers of the best available technology for the use of biomass for energy;

“(4) provide technical assistance to such producers to improve their ability to efficiently use biomass for energy; and

“(5) disseminate to such producers the results of research on energy conservation techniques and encourage such producers to adopt such techniques.

“(b) All appropriate educational methods, including meetings, short courses, workshops, tours, demonstrations, publications, news releases, and radio and television programs, may be used to carry out subsection (a).

“(c) The State director of cooperative extension in each State shall develop a single, comprehensive, and coordinated plan which includes every biomass energy educational and technical assistance program in effect or proposed in such State, except that in those States which contain more than one land-grant college or university, such plan shall be jointly developed by the administrative heads of State plan.

- Review.** extension of such institutions. Such plan shall be developed with the full participation of the State forester or the equivalent State official of such State. Each State's plan shall be submitted to the Secretary annually for approval. The Advisory Board shall review and make recommendations to the Secretary pertaining to programs conducted under this section. Each State shall submit an annual progress report on the operation of its plan to the Secretary before January 1 following the fiscal year for which such report is made.
- Annual report.** "(d) Funds made available under this section shall be provided to the State director of cooperative extension and the administrators of extension for land-grant colleges and universities in each State in a manner consistent with the effective implementation of this section.
- Definitions.** "(e) For purposes of this section—
 "(1) the term 'biomass' means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, and animal wastes, except that such term does not include aquatic plants and municipal wastes;
 "(2) the term 'biomass energy' means any gaseous, liquid, or solid fuel produced by conversion of biomass, and energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat; and
 "(3) the term 'municipal wastes' means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse—
 "(i) from any publicly or privately operated municipal waste collection or similar disposal system; or
 "(ii) from similar waste flows (other than such flows which constitute agricultural wastes or residues, or wood wastes or residues from wood harvesting activities or production of forest products).
- Appropriation authorization.** "(f) There is authorized to be appropriated to carry out this section \$10,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984."
 (b) The table of contents of the Food and Agriculture Act of 1977 (91 Stat. 913) is amended by inserting after the item relating to section 1413 the following new item:
 "Sec. 1413A. Biomass energy educational and technical assistance programs."

RURAL ENERGY EXTENSION WORK

- 7 USC 341.** SEC. 256. The Act of May 14, 1914 (38 Stat. 372; 7 U.S.C. 341-349), commonly known as the Smith-Lever Act, is amended—
 (1) in section 1 by striking out "and home economics," and inserting in lieu thereof ", home economics, and rural energy,"; and
7 USC 342. (2) in section 2 by striking out "and home economics" and inserting in lieu thereof ", home economics, and rural energy".

COORDINATION OF RESEARCH AND EXTENSION ACTIVITIES

- 42 USC 8852.** SEC. 257. (a) The Secretary of Agriculture shall coordinate the applied research and extension programs conducted under this subtitle and under the amendments made by this subtitle to section 1419 and subtitle B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, section 1 of the Bankhead-Jones Act, section 3 of the Forest and Rangeland Renewable Resources Research
- 7 USC 8154, 8121-8128, 427.**

PUBLIC LAW 96-294—JUNE 30, 1980

94 STAT. 709

Act of 1978, and sections 1 and 2 of the Smith-Lever Act with the programs of the Department of Energy. 16 USC 1642.

(b) In carrying out this subtitle and the amendments made by this subtitle, the Secretary of Agriculture shall consult on a continuing basis with—

(1) the Subcommittee on Food and Renewable Resources of the Federal Coordinating Council for Science, Engineering, and Technology;

(2) the Joint Council on Food and Agricultural Sciences; and

(3) the National Agricultural Research and Extension Users Advisory Board;

for the purpose of coordinating research and extension activities.

LENDING FOR ENERGY PRODUCTION AND CONSERVATION PROJECTS BY PRODUCTION CREDIT ASSOCIATIONS, FEDERAL LAND BANKS, AND BANKS FOR COOPERATIVES

SEC. 258. The Farm Credit Administration shall encourage production credit associations, Federal land banks, and banks for cooperatives to use existing authorities to make loans to eligible persons for commercially feasible biomass energy projects. 42 USC 8853.

AGRICULTURAL CONSERVATION PROGRAM; ENERGY CONSERVATION COST SHARING

SEC. 259. Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) in the first sentence by inserting “(including energy conservation)” after “conservation”; and

(2) by inserting after the first undesignated paragraph the following new undesignated paragraph:

“The Secretary may provide financial assistance to agricultural producers for the purpose of encouraging energy conservation by sharing the costs of and providing technical assistance for (1) the establishment, restoration, and better use of shelter belts to conserve energy on farmsteads and feed lots, (2) the establishment and use of minimum tillage systems, (3) the efficient storage and application of manure and other suitable wastes to the land for land fertility and soil improvement, (4) the use of integrated pest management, (5) the use of energy-efficient irrigation water management, and (6) such other land, water, and related resource management practices as the Secretary may determine to have significant energy-conserving effects.”.

PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

SEC. 260. (a) The Food and Agriculture Act of 1977 (91 Stat. 913) is amended by adding at the end thereof the following new title:

“TITLE XX—PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

“SEC. 2001. (a) The Secretary of Agriculture shall permit, subject to such terms and conditions as the Secretary shall prescribe, all or any part of the acreage set aside or diverted under the Agricultural Act of 1949 from the production of a commodity for any crop year to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel, if the 7 USC 1435.

Secretary of Agriculture determines that such production is desirable in order to provide an adequate supply of commodities for such conversion, is not likely to increase the cost of price support programs, and will not adversely affect farm income.

Production of
commodities for
fuel,
administration.
7 USC 1421 note.

"(b)(1) During any year in which no set-aside or diversion of acreage is in effect under the Agricultural Act of 1949, the Secretary of Agriculture may formulate and administer a program for the production, subject to such terms and conditions as he may prescribe, of commodities for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel. Under such program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to such production.

Payment rates.

"(2) The payments under this subsection shall be made at such rate or rates as the Secretary of Agriculture determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of commodities for such conversion.

Regulations.

"(3) The Secretary may issue any regulations necessary to carry out the provisions of this subsection.

Appropriation
authorization.

"(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection."

(b) The table of contents of the Food and Agriculture Act of 1977 (91 Stat. 913) is amended by adding at the end thereof the following new items:

"TITLE XX—PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

"Sec. 2001. Production of commodities on set-aside acreage."

UTILIZATION OF NATIONAL FOREST SYSTEM IN WOOD ENERGY DEVELOPMENT PROJECTS

42 USC 8854.

SEC. 261. The Secretary of Agriculture may make available the timber resources of the National Forest System, in accordance with appropriate timber appraisal and sale procedures, for use by biomass energy projects.

FOREST SERVICE LEASES AND PERMITS

42 USC 8855.

SEC. 262. It is the intent of the Congress that the Secretary of Agriculture shall process applications for leases of National Forest System lands and for permits to explore, drill, and develop resources on land leased from the Forest Service, notwithstanding the current status of any plan being prepared under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

SUBTITLE D—MISCELLANEOUS BIOMASS PROVISIONS

USE OF GASOHOL IN FEDERAL MOTOR VEHICLES

42 USC 8871.

SEC. 271. (a) The President shall, by executive order, require that motor vehicles which are owned or leased by Federal agencies and are capable of operating on gasohol shall use gasohol where available at reasonable prices and in reasonable quantities.

Exceptions.

(b) The President may provide for exceptions to the requirement of subsection (a) where necessary, including to protect the national security.

(c) Such executive order shall specify the alcohol-gasoline mixture or mixtures which shall constitute "gasohol" for purposes of such order, as well as specifications for its use. Gasohol.

MOTOR VEHICLE ALCOHOL USAGE STUDY

Sec. 272. The Secretary of Energy shall, in consultation with the Secretary of Transportation, submit to the Congress within 9 months after the date of the enactment of this Act a report on— Report to Congress.

- (1) the need for, and practicality of, mandating through legislation that any new motor vehicle sold in the United States shall be capable of using alcohol as a motor fuel in specified alcohol-gasoline mixtures, or using alcohol as the only fuel;
- (2) the need for any other legislation to address technical or institutional barriers to the widespread marketing of alcohol, including requirements that would mandate specified proportions of alcohol in all motor gasoline sold; and
- (3) any other aspects of the use of alcohol as a motor fuel, as the Secretary considers appropriate.

NATURAL GAS PRIORITIES

Sec. 273. For the purposes of section 401 of the Natural Gas Policy Act of 1973 (Public Law 95-621), the term "essential agricultural use" shall— Essential agricultural use.
15 USC 3391a.
15 USC 3391.

- (1) include use of natural gas in sugar refining for production of alcohol;
- (2) include use of natural gas for agricultural production on set-aside acreage or acreage diverted from the production of a commodity (as provided under the Agricultural Act of 1949) to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuels; and
- (3) for the 5-year period beginning on the date of the enactment of this Act, include use of natural gas in the distillation of fuel-grade alcohol from food grains or other biomass by facilities in existence on the date of the enactment of this Act which do not have the installed capability to burn coal lawfully.

7 USC 1421 note.

STANDBY AUTHORITY FOR ALLOCATION OF ALCOHOL FUEL

Sec. 274. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection: 15 USC 753.

"(f)(1) If the President finds that there are significant quantities of alcohol available for use in motor fuel that are not being used for that purpose because of an unavailability of crude oil with respect to a refiner or unavailability of gasoline with respect to persons engaged in marketing of petroleum products, the President shall, to the extent practicable and subject to the provisions of this Act, use the authorities under subsection (a) to provide for the allocation of—

"(A) crude oil to refineries engaged in the production of refined petroleum products to be mixed with alcohol, and

"(B) refined petroleum products to persons engaged in the marketing of petroleum products,

so as to result in the use of such quantities of alcohol in motor fuel.

"(2) In exercising such authorities pursuant to this subsection, the President shall—

"(A) seek to avoid disruption of crude oil and refined petroleum product markets and to avoid causing unreasonable increases in the price of alcohol, and

"(B) give due consideration to the adequacy of quality control in any refinery operations related to the receipt of an allocation of crude oil.

"Alcohol."

"(3) For the purposes of this subsection, 'alcohol' means methanol, ethanol, or any other alcohol which is produced from any source and which is suitable for use in combination with other fuels as a motor fuel.

"(4) Nothing in this subsection shall limit the allocation authorities under subsection (a)."

TITLE III—ENERGY TARGETS

PREPARATION OF ENERGY TARGETS

Transmittal to
Congress.
42 USC 7361.

SEC. 301. (a) During the first calendar week beginning in February of 1981, and of every second year thereafter, the President shall transmit to the Congress energy targets for net imports, domestic production, and end-use consumption of energy for the calendar years 1985, 1990, 1995, and 2000. Such targets shall be transmitted in the form prescribed in section 303.

(b) In preparing energy targets under this section, the President shall take into account anticipated energy conservation and anticipated production of energy from new technologies, and shall transmit with the targets supporting data together with a statement of the assumptions on which the targets are based.

(c) During the first calendar week beginning in February of 1982, and of every second year thereafter, the President shall transmit to the Congress reports regarding the energy targets transmitted during the preceding year.

(d) The President shall not transmit any revised target (or supporting data) for any calendar year which has then elapsed.

CONGRESSIONAL CONSIDERATION

DOE
authorization
bills.
42 USC 7362.

SEC. 302. (a)(1) Any Department of Energy authorization bill for fiscal year 1982 and any such bill for fiscal year 1984 which is proposed in an executive communication to the Congress shall include the targets required by section 301(a) to be transmitted in February of the preceding fiscal year. Such targets shall be in the form prescribed in section 303 and shall be set forth as a separate title at the end of the proposed bill.

Transmittal to
Congress.

(2) The energy targets transmitted to the Congress under section 301 shall be considered by any committee of the House of Representatives or the Senate in connection with any Department of Energy authorization bill for fiscal year 1982 or fiscal year 1984. This paragraph shall apply during the Ninety-seventh Congress and the Ninety-eighth Congress, and during any subsequent Congress (with respect to Department of Energy authorization bills for later fiscal years) to the extent expressly provided in any Act (other than an appropriation Act) approved after the date of the enactment of this Act.

Amendments.

(3)(A) During the Ninety-seventh Congress and the Ninety-eighth Congress, it shall be in order (notwithstanding any rule or provision of law) during the consideration in the House of Representatives, in

the Senate, or in any committee of either, of any Department of Energy authorization bill for fiscal year 1982 or fiscal year 1984, or a joint resolution (as defined in subsection (d)(1)(B)), to offer and consider, except as provided in subparagraph (B)—

(i) any amendment (or series of amendments) only changing the number of any energy target contained in such bill or resolution, or

(ii) in the case of any such authorization bill, any amendment only adding a title containing only energy targets in the form prescribed in section 303 if such bill does not contain such a title, or only deleting such a title contained in such bill.

(B) Any amendment (or series of amendments) referred to in subparagraph (A) shall not be in order unless it continues or achieves mathematical consistency within the targets.

(b)(1) If—

Reporting dates.

(A) on or before May 15, 1981, no Department of Energy authorization bill for fiscal year 1982 has been reported to either House of the Congress by any of the respective authorizing committees, or

(B) no committee which has reported such an authorization bill in either House by such date has included energy targets in the form prescribed in section 303 as a separate title,

a joint resolution introduced in the Senate or the House of Representatives after such date shall be subject to the provisions of this section and shall immediately be referred to the appropriate authorizing committees, which shall have until July 15, 1981, to consider and report such resolution.

(2) If on or before July 15, 1981, the appropriate authorizing committees of the House of Representatives or the Senate have not reported such a joint resolution, such committees of that House may be discharged from further consideration of such joint resolution (or any other joint resolution) in accordance with paragraph (4) of section 552(d) of the Energy Policy and Conservation Act (as if it were a resolution relating to a contingency plan) if a motion for such a discharge is made during the period of 20 calendar days of continuous session of Congress which follows July 15, 1981.

Joint resolutions.

42 USC 6422.

(3) The provisions of subsections (c) and (d)(5) and (6) of section 552 of such Act shall apply with respect to the consideration of such a joint resolution in either House, except that—

(A) debate on such joint resolution shall be limited to not more than 3 hours,

(B) it shall be in order (notwithstanding any rule or provision of law) to offer and consider any amendment (or series of amendments) permitted under subsection (a)(3), and

(C) the references in such provisions to any resolution relating to a contingency plan shall be considered to refer to a joint resolution under this section.

(c) In the consideration of any Department of Energy authorization bill containing a title setting forth energy targets, the question of whether any amendment (other than an amendment referred to in subsection (a)(3)) to any portion of such bill (including such title) is in order in the House of Representatives, in the Senate, or in any committee of either, shall be determined as if the title containing such targets were not in the bill.

(d)(1) For purposes of this section—

Definitions.

(A) the term "Department of Energy authorization bill" means any general authorization of appropriations for the civilian programs and activities of the Department of Energy;

(B) the term "joint resolution" means only a joint resolution of either House of Congress (i) which is entitled "Joint resolution relating to energy targets," (ii) which does not contain a preamble, and (iii) the matter after the resolving clause of which only contains energy targets in the form prescribed by section 303; and

(C) the term "energy target" means any number contained in the form prescribed in section 303.

Rulemaking
powers.

(2) This section is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of Department of Energy authorization bills and joint resolutions described by paragraph (1) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

ENERGY TARGET FORM

42 USC 7363.

SEC. 303. (a) For purposes of this title, energy targets shall be set forth in the following form:

ENERGY TARGETS [Quadrillion Btu's per year]				
	1985	1990	1995	2000
Domestic production:				
Crude oil and NGL.....				
Natural gas.....				
Coal.....				
Nuclear.....				
Renewables and geothermal.....				
Other.....				
Subtotal.....				
Imports:				
Crude oil and refined petroleum.....				
Natural gas.....				
Coal.....				
Other.....				
Subtotal.....				
Total supply.....				
End-use consumption:				
Petroleum liquids.....				
Natural gas.....				
Direct coal.....				
Electricity.....				
Decentralized renewables.....				
Other.....				
Subtotal.....				
Conversion loss.....				
Total consumption.....				

(b) As used in subsection (a)—

Definitions.

(1) the term "crude oil and NGL" includes liquid products obtained from lease operations, field facilities, and natural gas processing plants and liquid petroleum obtained from shale and tarsands;

(2) the term "coal", when used under the domestic production category, includes coal which is converted to gaseous or liquid fuels;

(3) the term "renewables" includes energy or fuel derived directly from sunlight or from biomass (as defined in section 203), and hydropower sources; *Ante, p. 711.*

(4) the term "end-use consumption" does not include exports of fuel or electricity;

(5) the term "decentralized renewables" does not include electricity produced for delivery to multiple points of end-use consumption; and

(6) the term "conversion loss" includes heat or other forms of energy not recovered in the conversion of raw energy resources, fuels, or electricity into alternate form prior to delivery for end-use consumption.

GENERAL PROVISIONS REGARDING TARGETS

SEC. 304. (a) The energy targets set forth pursuant to this title in any joint resolution or any Act authorizing appropriations for the Department of Energy shall be considered as an expression of national goals and shall not be considered to have any legal force or effect. *42 USC 7364.*

(b) Expenses paid or incurred by the President for preparing the energy targets and reports under this title shall be from funds otherwise available to the Department of Energy, consistent with otherwise applicable law. Such targets and reports shall be prepared using the minimum extent of contracting assistance that is required for their preparation. If any assistance is required to be obtained by contract for the preparation of the targets and reports, that assistance shall be limited to the providing of supporting information and may not include the preparation or recommendation of any proposed or final energy target. *Expenses.*

(c) The preparation and transmission of such targets or reports shall not be considered a major Federal action for the purposes of the National Environmental Policy Act of 1969. *42 USC 4321 note.*

TITLE IV—RENEWABLE ENERGY INITIATIVES**SHORT TITLE**

SEC. 401. This title may be cited as the "Renewable Energy Resources Act of 1980". *Renewable Energy Resources Act of 1980.*

PURPOSE

SEC. 402. The purpose of this title is to establish incentives for the use of renewable energy resources, to improve and coordinate the *42 USC 7371 note. 42 USC 7371.*

dissemination of information to the public with respect to renewable energy resources, to encourage the use of certain cost effective solar energy systems and conservation measures by the Federal Government, to establish a program for the promotion of local energy self-sufficiency, to broaden the existing program for accelerating the procurement and use of photovoltaic systems, and to provide further encouragement for the development of small hydroelectric power projects.

DEFINITIONS

42 USC 7372.

SEC. 403. For purposes of this title—

- (1) the term "Secretary" means the Secretary of Energy; and
- (2) the term "renewable energy resource" means any energy resource which has recently originated in the sun, including direct and indirect solar radiation and intermediate solar energy forms such as wind, ocean thermal gradients, ocean currents and waves, hydropower, photovoltaic energy, products of photosynthetic processes, organic wastes, and others.

COORDINATED DISSEMINATION OF INFORMATION ON RENEWABLE ENERGY RESOURCES AND CONSERVATION

42 USC 7373.

SEC. 404. In order to improve the effectiveness of Federal information dissemination activities in the fields of renewable energy resources and energy conservation with the objective of developing and promoting better public understanding of these resources and their potential uses, the Secretary shall—

- (1) take affirmative steps to coordinate all of the activities of the Department of Energy, whether conducted by the Department itself or by other public or private entities with assistance from the Department, which are aimed at or involve the dissemination of information with respect to renewable energy resources or energy conservation, and

Annual report to Congress.

- (2) report annually to the Congress on the status of such activities, including a description of how the information dissemination activities and services of the Department of Energy in the fields of renewable energy resources and energy conservation are being coordinated with similar or related activities and services of other Federal agencies.

ESTABLISHMENT OF LIFE-CYCLE ENERGY COSTS FOR FEDERAL BUILDINGS

42 USC 8255.

SEC. 405. Section 545(a)(1) of the National Energy Conservation Policy Act is amended by inserting before the period at the end thereof the following: "using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of 25 years, whichever is shorter, and using marginal fuel costs as determined by the Secretary and a discount rate of 7 per centum per year"

ENERGY SELF-SUFFICIENCY INITIATIVES

Program establishment.
42 USC 7374.

SEC. 406. (a) There is hereby established under the direction of the Secretary a 3-year pilot energy self-sufficiency program to demon-

trate energy self-sufficiency through the use of renewable energy resources in one or more States in the United States.

(b) As a part of the pilot program, the Secretary shall establish such subprograms as the Secretary determines are necessary to achieve the purpose of this section, including subprograms—

Subprograms.

(1) to promote the development and utilization of synergistic combinations of different renewable energy resources in specific projects aimed at reducing fossil fuel importation;

(2) to initiate and encourage energy self-sufficiency at appropriate levels of government;

(3) to stimulate private industry participation in the realization of the objective stated in subsection (a); and

(4) to stimulate the utilization of abandoned or underutilized industrial facilities for the generation of energy from any locally available renewable resource, such as municipal solid waste, agricultural waste, or forest products waste.

(c) In carrying out the provisions of this section, the Secretary is authorized to assign to an existing office in the Department of Energy the responsibility of undertaking and carrying out the subprograms established under subsection (b). In addition, the Secretary shall prepare a detailed plan within one hundred eighty days of the enactment of this Act, setting forth (1) the 3-year pilot program itself, and (2) any additional Federal actions needed to encourage and promote the adoption of programs for energy self-sufficiency.

(d) The Secretary shall submit to the Congress, within one year after the date of the enactment of this Act, the plan prepared under the second sentence of subsection (c) along with a report suggesting the legislative initiatives needed to fully implement such plan.

Plan, submittal to Congress.

PHOTOVOLTAIC AMENDMENTS

Sec. 407. The Federal Photovoltaic Utilization Act (42 U.S.C. 8271 et seq.) is amended—

(1) by adding at the end of section 562(1) the following new sentence: "Such term also applies to facilities related to programs administered by Federal agencies.";

42 USC 8271.

(2)(A) by inserting before the period at the end of the first sentence of section 565 the following: ", and for the acquisition of such systems and associated capability by Federal agencies for their own use in cases where the authority to make such acquisition has been delegated to the agency involved by the Secretary";

42 USC 8274.

(B) by inserting "(or other Federal agency acting under delegation from the Secretary)" after "Secretary" in the third sentence of section 565;

(C) by inserting "(or other Federal agency acting under delegation from the Secretary)" after "Secretary" in the second sentence of section 567(a);

42 USC 8276.

(D) by inserting "and other Federal agencies acting under delegation from the Secretary" after "Secretary" in the third sentence of section 567(a);

(3) by striking out "rules and regulations" in section 566(2) and inserting in lieu thereof "requirements"; and

42 USC 8275.

42 USC 8275.

(4) by adding at the end of section 566 (after and below paragraph (3)) the following new sentence:
 "Notwithstanding any other provision of law, the Secretary shall not be subject to the requirements of section 553 of title 5, United States Code, in the performance of his functions under this part."

SMALL-SCALE HYDROPOWER INITIATIVES

SEC. 408. (a) Section 408(1) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2708(1)) is amended by striking out "15,000 kilowatts" and inserting in lieu thereof "30,000 kilowatts".

(b) Section 405 of such Act (16 U.S.C. 2705) is amended by adding at the end thereof the following new subsection:

16 USC 791a.

"(d) EXEMPTIONS FROM LICENSING REQUIREMENTS IN CERTAIN CASES.—The Commission may in its discretion (by rule or order) grant an exemption in whole or in part from the requirements (including the licensing requirements) of part I of the Federal Power Act for small hydroelectric power projects having a proposed installed capacity of 5,000 kilowatts or less, on a case-by-case basis or on the basis of classes or categories of projects, subject to the same limitations to ensure protection for fish and wildlife as well as other environmental concerns as those which are set forth in subsections (c) and (d) of section 30 of the Federal Power Act with respect to determinations made and exemptions granted under subsection (a) of such section and subsections (c) and (d) of such section 30 shall apply with respect to actions taken and exemptions granted under this subsection. Except as specifically provided in this subsection, the granting of an exemption to a project under this subsection shall in no case have the effect of waiving or limiting the application (to such project) of the second sentence of subsection (b) of this section."

16 USC 791.

16 USC 2708.

(c) Section 408 of such Act (as amended by subsection (a) of this section) is further amended—

(1) by inserting "(a)" before "For purposes of this title";

(2) by adding at the end thereof the following new subsection:

"(b) The requirement in subsection (a)(1) that a project be located at the site of an existing dam in order to qualify as a small hydroelectric power project, and the other provisions of this title which require a project be at or in connection with an existing dam (or the potential of such dam) in order to be assisted under or excluded from such provisions, shall not be construed to exclude—

"(1) from the definition contained in such subsection

"(2) from any other provision of this title,

any project which utilizes or proposes to utilize natural features for the generation of electricity, without the need for a dam or impoundment, in a project which (as determined by the Commission) will not have the purposes of this title and will not have any adverse effect upon such natural water resources.

Rules and
regulations,
establishment.
16 USC 2701
note.

16 USC 2703.

16 USC 2701.

(d) The Secretary shall take such action as may be necessary to assure the effective implementation of this section as soon as possible after the enactment of this Act, and within six months of the date of the enactment of this Act, shall make by subsections (a) and (b) of this section and in the case of any program under section 408 of the Public Utility Regulatory Policies Act of 1978, of such regulations as may be necessary to fully implement his duties under title IV of the Public Utility Regulatory Policies Act of 1978 and the amendments thereto made by this section.

(e) Not later than three months after the date of the enactment of this Act, the Secretary shall complete a study of the existing Federal programs and policies relating to the development and commercialization of small-scale hydropower, including (1) a survey and description of such Federal programs and policies, (2) an assessment of the efficacy of such Federal programs and related policies, and (3) an identification of any need for consolidation, reorganization, or change in such programs and policies in order to improve and insure their effectiveness.

Study.

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 409. (a) There is authorized to be appropriated for each of the fiscal years 1981 and 1982 not to exceed \$10,000,000 for loans under section 402 of the Public Utility Regulatory Policies Act of 1978, in addition to any amounts authorized for such loans by that Act; and the amounts appropriated pursuant to this subsection shall remain available until expended.

42 USC 7375.

16 USC 2702.

(b) There is authorized to be appropriated for each of the fiscal years 1981 and 1982 not to exceed \$100,000,000 for loans under section 403 of the Public Utility Regulatory Policies Act of 1978; and the amounts appropriated pursuant to this subsection shall remain available until expended.

16 USC 2703.

(c) There is authorized to be appropriated for the fiscal year 1981 not to exceed \$10,000,000 to carry out section 406 of this Act (relating to energy self-sufficiency initiatives).

16 USC 2706.

TITLE V—SOLAR ENERGY AND ENERGY CONSERVATION

Solar Energy and Energy Conservation Act of 1980.

SHORT TITLE

Sec. 501. This title may be cited as the "Solar Energy and Energy Conservation Act of 1980".

12 USC 3601 note.

SUBTITLE A—SOLAR ENERGY AND ENERGY CONSERVATION BANK

Solar Energy and Energy Conservation Bank Act.

SHORT TITLE

Sec. 502. This subtitle may be cited as the "Solar Energy and Energy Conservation Bank Act".

12 USC 3601 note.

PURPOSE

Sec. 503. It is the purpose of this subtitle to encourage energy conservation and the use of solar energy, and thereby reduce the Nation's dependence on foreign sources of energy supplies, by establishing a Solar Energy and Energy Conservation Bank (hereafter referred to as the "Bank").

12 USC 3601.

DEFINITIONS

Sec. 504. For purposes of this subtitle—

12 USC 3602.

(1) the term "Board" means the Board of Directors of the Bank, which is established pursuant to section 506(a);

(2) the term "residential building" means any building used as a residence which contains not more than 4 dwelling units and has a system for heating or cooling, or both;

(3) the term "multifamily residential building" means any building used as a residence which contains 5 or more dwelling units and has a system for heating or cooling, or both;

(4) the term "commercial building" means any building other than a residential, or multifamily residential, building which is used primarily to carry on a business (including any nonprofit business) and is not used primarily for the manufacture or production of raw materials, products, or agricultural commodities;

(5) the term "agricultural building" means any building used exclusively in connection with the production, harvesting, storage, or drying of agricultural commodities;

(6) the term "residential energy conserving improvements" means, with respect to a residential, or multifamily residential, building—

(A) caulking and weatherstripping;

(B) furnace efficiency modifications including—

(i) replacement burners, furnaces, boilers, or any combination thereof which, as determined by the Board, substantially increases the energy efficiency of the heating system;

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, floor, and duct insulation;

(E) water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting window and door materials;

(G) devices associated with load management techniques;

(H) such other improvements (not including solar energy systems) as the Board by rule identifies for purposes of this subtitle; and

(I) planning and technical services, any residential energy audit, and any conversion from master utility meters to individual utility meters, which are directly related to and undertaken with the installation of any of the items specified in subparagraphs (B) through (H);

(7) the term "commercial energy conserving improvements" means the installation or the modification of an installation which is designed primarily to reduce the consumption of petroleum, natural gas, or electrical power in a commercial or agricultural building, including—

(A) caulking and weatherstripping;

(B) the insulation of the building structure and any systems within the building;

(C) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting window and door systems, glazing, reductions in glass area, and other window and door system modifications;

(D) automatic energy control systems;

(E) equipment, associated with automatic energy control systems, which is required to operate variable steam, hydraulic, and ventilating systems;

(F) furnace, or utility plant and distribution system, modifications including—

(i) replacement burners, furnaces, boilers, or any combination thereof, which (as determined by the Board) substantially increases the energy efficiency of the heating system;

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(G) replacement or modification of a lighting system which increases the energy efficiency of the lighting system without increasing the overall illumination of the building (unless the increase in illumination is necessary to conform to any applicable State or local law or the increase is considered appropriate by the Board);

(H) energy recovery systems;

(I) cogeneration systems which produce electricity, as well as steam or other forms of thermal or mechanical energy, and which meet such fuel efficiency requirements as the Board may by rule prescribe;

(J) such other improvements (not including solar energy systems) as the Board identifies, by rule, for purposes of this subtitle; and

(K) planning and technical services, and any commercial energy audit, which are directly related to and undertaken with the installation, or the modification of an installation, which includes any of the items specified in subparagraphs (B) through (J).

(8) the term "solar energy system" means, with respect to a building, any addition, alteration, or improvement which is designed to utilize wind energy, energy produced by a wood-burning appliance, or solar energy, either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer (or some combination of these types), to reduce the energy requirements of the building, and which is in conformity with such criteria and standards as shall be prescribed by the Board in consultation with the Secretary of Housing and Urban Development, the Secretary of Energy, and the National Institute of Building Sciences, except that such term shall include solar process heat devices, solar electric devices, and any earth sheltered building where such sheltering substantially reduces the energy requirements of such building from nonrenewable energy sources and shall include only those fireplaces which are integral parts of a system which is designed to utilize passive type solar energy;

(9) the term "financial institution" means any lender (including any nonprofit entity and any State or local governmental entity) designated by the Board based on the qualifications established for the insurance of financial institutions under section 2 of title I of the National Housing Act, or any utility providing financing for the purchase and installation of residential energy conservation measures in accordance with the requirements of title II of the National Energy Conservation Policy Act;

12 USC 1708.

42 USC 8211.

(10) the term "residential energy audit" means—

42 USC 8211,
post, p. 752.

Onsite
inspection of
residential or
multifamily
building.

(A) an inspection or energy audit of a residential, or multifamily residential, building, or a dwelling unit in such building, performed for purposes of title II or VII of the National Energy Conservation Policy Act; or

(B) an onsite inspection of a residential, or multifamily residential, building, or a dwelling unit in such building, which includes a determination of and provides information on—

(i) the type, quantity, and rate of energy consumption of such building or dwelling unit;

(ii) energy conserving maintenance and operating procedures which can be employed to significantly reduce the energy consumption of such building or dwelling unit;

(iii) in the case of a residential building, a multifamily residential building which does not contain a central heating or cooling system, or a dwelling unit in such building, the cost of purchasing and installing appropriate residential energy conserving improvements, a solar energy system, or both, and the savings in energy costs which are likely to result from the installation of such improvements or system; and

(iv) in the case of a multifamily residential building which contains a central heating or cooling system, or a dwelling unit in such building, the need if any, for the purchase and installation of appropriate residential energy conserving improvements, a solar energy system, or both; and

(11) the term "commercial energy audit" means—

(A) an energy audit performed for purposes of title VII of the National Energy Conservation Policy Act; or

(B) an onsite inspection of a commercial or agricultural building which includes a determination of, and provides information on—

(i) the type, quantity, and rate of energy consumption of such building;

(ii) appropriate energy conserving maintenance and operating procedures which can be employed to significantly reduce the energy consumption of such building; and

(iii) the need if any, for the purchase and installation of commercial energy conserving improvements, a solar energy system, or both, in such building.

Part 1—Establishment and Operation of the Bank

ESTABLISHMENT OF THE BANK

Solar Energy
and Energy
Conservation
Bank.
12 USC 3603.
12 USC 1723a.

SEC. 505. (a) There is hereby created the Solar Energy and Energy Conservation Bank which shall be in the Department of Housing and Urban Development and shall have the same powers as those powers given to the Government National Mortgage Association by section 309(a) of the National Housing Act. The Bank shall not exist after September 30, 1987.

(b) The General Accounting Office shall audit, not later than the date occurring 2 years after the date of the enactment of this subtitle, and not later than each date occurring 8 years after such audit, the

Audit.

financial transactions of the Bank, and for this purpose shall have access to all of the books, records, and accounts of the Bank.

(c) The Bank may impose fees or charges for its services which shall be deposited into the miscellaneous receipts of the Treasury.

BOARD OF DIRECTORS

Sec. 506. (a) The Bank shall be governed by a Board of Directors. The Board shall consist of the Secretary of Housing and Urban Development, the Secretary of Energy, the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce. 12 USC 3604.

(b) Three members of the Board shall constitute a quorum.

(c) The Chairperson of the Board shall be the Secretary of Housing and Urban Development.

(d) The President of the Bank shall be the Secretary of the Board.

(e) The Board shall carry out the functions of the Bank as set forth in this subtitle and shall adopt such regulations, subject to the provisions of section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)), as the Board determines are necessary to carry out such functions.

(f) The Board shall provide to the Secretary of the Treasury such information as the Secretary of the Treasury determines is necessary to insure that no individual is allowed for the same expenditure both—

(1) a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954; and

(2) financial assistance under this subtitle.

26 USC 38, 44C.

OFFICERS AND PERSONNEL

Sec. 507. (a) There is established in the Department of Housing and Urban Development the position of President of the Bank, which shall be filled by an individual appointed by the President of the United States with the advice and consent of the Senate and which shall be compensated at the rate now or thereafter prescribed for executive level V by section 5316 of title 5, United States Code. President of the Bank. 12 USC 3605. 44 FR 58678.

(b) The President of the Bank shall appoint an Executive Vice President for Energy Conservation, and an Executive Vice President for Solar Energy, who shall be paid at a rate set by the Board and shall have the functions, powers, and duties prescribed by the President of the Bank.

(c) Subject to the direction of the Board, the President of the Bank shall manage and supervise the affairs of the Bank with the assistance of the Executive Vice Presidents and shall perform any functions of the Bank which the Board may prescribe. Functions.

(d) The Secretary of Housing and Urban Development may permit the Bank to utilize the services or personnel of the Department of Housing and Urban Development, including the personnel of the Government National Mortgage Association, for the purpose of carrying out this subtitle.

ADVISORY COMMITTEES

Sec. 508. (a) As part of the Bank, there is established an Energy Conservation Advisory Committee composed of 5 members which shall provide advice to the Board for the purpose of assisting the Bank in carrying out the activities of the Bank which relate to residential and commercial energy conserving improvements. The Energy Conservation Advisory Committee. Establishment. 12 USC 3606.

members of the advisory committee shall be appointed by the Board, from among individuals who are not officers or employees of any governmental entity, as follows:

(1) One individual who is able to represent the views of consumers as a result of the individual's education, training, and experience.

(2) One individual who is able to represent the views of financial institutions as a result of the individual's education, training, and experience.

(3) One individual who is able to represent the views of builders as a result of the individual's education, training, and experience.

(4) One individual who is able to represent the views of architectural or engineering interests as a result of the individual's education, training, and experience.

(5) One individual who is able to represent the views of producers or installers of residential and commercial energy conserving improvements as a result of the individual's education, training, and experience.

Solar Energy
Advisory
Committee.

Membership.

(b) As part of the Bank, there is established a Solar Energy Advisory Committee composed of 5 members which shall provide advice to the Board for the purpose of assisting the Bank in carrying out the activities of the Bank which relate to solar energy systems. The members of the advisory committee shall be appointed by the Board, from among individuals who are not officers or employees of any governmental entity, as follows:

(1) One individual who is able to represent the views of consumers as a result of the individual's education, training, and experience.

(2) One individual who is able to represent the views of financial institutions as a result of the individual's education, training, and experience.

(3) One individual who is able to represent the views of builders as a result of the individual's education, training, and experience.

(4) One individual who is able to represent the views of architectural or engineering interests as a result of the individual's education, training, and experience.

(5) One individual who is able to represent the views of the solar energy industry as a result of the individual's education, training, and experience.

Term of office.

(c)(1) Except as provided in paragraphs (2) and (3), members of the Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall be appointed for terms of 2 years.

(2) Of the members first appointed, those appointed pursuant to paragraphs (1) and (2) of subsections (a) and (b) shall be appointed for a term of 3 years and those appointed pursuant to paragraphs (3), (4), and (5) of subsections (a) and (b) shall be appointed for a term of 2 years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the member's successor has taken office.

(d) If any member of the Energy Conservation Advisory Committee or the Solar Energy Advisory Committee becomes an officer or employee of any governmental entity, the member may continue as a

member of such advisory committee for not longer than the 90-day period beginning on the date the member becomes such an officer or employee.

(e) Subject to the availability of appropriations, members of the Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall each be paid at a rate equal to the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332(a)) for each day (including travel time) during which they are engaged in the actual performance of the duties vested in such advisory committee.

44 FR 58671.

(f) Three members of the Energy Conservation Advisory Committee shall constitute a quorum, and 3 members of the Solar Energy Advisory Committee shall constitute a quorum, but a lesser number of members of either advisory committee may hold hearings.

Quorum.

(g) The Chairperson of the Energy Conservation Advisory Committee and the Chairperson of the Solar Energy Advisory Committee shall each be elected by the members of such advisory committee.

(h) The Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall not terminate until the Bank ceases to exist.

Termination.

PROVISION OF FINANCIAL ASSISTANCE

Sec. 509. (a) Subject to the conditions contained in sections 513, 514, and 515 and the limitations contained in sections 516 and 517, the Bank may make payments to financial institutions to provide financial assistance in the form of—

12 USC 3607.

(1) reductions of the principal obligations of loans, or portions of loans, made—

(A)(i) to owners of, and tenants in, existing residential and multifamily residential buildings for the purchase and installation of residential energy conserving improvements in such buildings; and (ii) to owners who occupy, and tenants in, existing commercial and agricultural buildings for the purchase and installation of commercial energy conserving improvements in such buildings; and

(B)(i) to owners of existing residential, multifamily residential, commercial, and agricultural buildings for the purchase and installation of solar energy systems in such buildings; (ii) to builders of newly constructed or substantially rehabilitated residential buildings for the purchase and installation of solar energy systems in such buildings; and (iii) to purchasers of newly constructed or substantially rehabilitated residential, multifamily residential, commercial, and agricultural buildings which have such systems;

(2) prepayments of the interest which would otherwise be due with respect to such loans, or portions of loans; and

(3) grants to owners of, and tenants in, existing residential buildings and tenants in existing multifamily residential buildings for the purchase and installation of residential energy conserving improvements in such buildings.

(b) Financial assistance may be provided under subsection (a) only

Conditions.

(1) the expenditures for residential and commercial energy conserving improvements and solar energy systems, made using financial assistance provided under this subtitle, are made after the date of the enactment of this subtitle; or

(2) the financial assistance is provided in the form described in paragraph (1) or (2) of subsection (a) and—

(A) the financial assistance is for the purchase and installation of residential or commercial energy conserving improvements;

(B) the purchase and installation of residential or commercial energy conserving improvements was financed by a loan made after January 1, 1980, and before the date of the enactment of this subtitle;

(C) the financial assistance is provided not later than 90 days after the date of the promulgation by the Board of regulations with respect to such financial assistance;

(D) the determination of the amount of the financial assistance pursuant to section 511 is made on the basis of the amount of the principal obligation of the loan outstanding on the date of the provision of such financial assistance; and

(E) the owner or tenant receiving such loan has not applied for or received any credit against taxes allowed by section 38 or section 44C of the Internal Revenue Code of 1954 for the expenditures made with the proceeds of such loan, or portion of a loan.

26 USC 38, 44C.

(c) The amount of any financial assistance provided under this subtitle shall not be included in the gross income of any person for purposes of the Internal Revenue Code of 1954, and such person shall not receive any increase in basis under the Internal Revenue Code of 1954 which is attributable to the amount of any financial assistance provided under this subtitle.

26 USC 1 *et seq.*

ESTABLISHING LEVELS OF FINANCIAL ASSISTANCE

12 USC 3608.

SEC. 510. (a) The Board shall establish, from time to time, the various levels of financial assistance which will be made under section 509, subject to the maximum amounts allowed under sections 511 and 512.

(b) In establishing such levels the Board shall consider at least—

(1) the prevailing market rates of interest for home mortgages, home improvement loans, commercial and agricultural building loans, and Federal Government and corporate bonds;

(2) the availability of other Federal incentives and subsidies for energy conservation expenditures and solar energy system expenditures, including Federal tax credits;

(3) the costs and efficiencies of nonrenewable energy resources and systems, residential and commercial energy conserving improvements, and solar energy systems; and

(4) the levels of financial assistance needed to induce owners and tenants from various income groups to purchase and install residential and commercial energy conserving improvements and solar energy systems in residential, multifamily residential, commercial, and agricultural buildings and to induce the purchase of newly constructed or substantially rehabilitated buildings which include solar energy systems.

MAXIMUM AMOUNTS OF FINANCIAL ASSISTANCE FOR RESIDENTIAL AND COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

12 USC 3609.

SEC. 511. (a) The maximum amount of financial assistance which may be provided to an owner or tenant under this subtitle for the

purchase and installation of residential energy conserving improvements in a residential building may not exceed—

(1) in the case of an owner or tenant whose income does not exceed an amount equal to 80 percent of the median area income—

(A) an amount equal to 50 percent of the cost of the residential energy conserving improvements; or

(B) \$1,250 in the case of a residential building with one dwelling unit, \$2,000 in the case of a residential building with 2 dwelling units, \$2,750 in the case of a residential building with 3 dwelling units, or \$3,500 in the case of a residential building with 4 dwelling units,

whichever is less;

(2) in the case of an owner or tenant whose income exceeds an amount equal to 80 percent, but does not exceed an amount equal to 100 percent, of the median area income—

(A) an amount equal to 35 percent of the cost of the residential energy conserving improvements; or

(B) \$875 in the case of a residential building with one dwelling unit, \$1,400 in the case of a residential building with 2 dwelling units, \$1,925 in the case of a residential building with 3 dwelling units, or \$2,450 in the case of a residential building with 4 dwelling units,

whichever is less;

(3) in the case of an owner or tenant whose income exceeds an amount equal to 100 percent, but does not exceed an amount equal to 120 percent, of the median area income—

(A) an amount equal to 30 percent of the cost of the residential energy conserving improvements; or

(B) \$750 in the case of a residential building with one dwelling unit, \$1,200 in the case of a residential building with 2 dwelling units, \$1,650 in the case of a residential building with 3 dwelling units, or \$2,100 in the case of a residential building with 4 dwelling units,

whichever is less; and

(4) in the case of an owner or tenant whose income exceeds an amount equal to 120 percent, but does not exceed an amount equal to 150 percent, of the median area income—

(A) an amount equal to 20 percent of the cost of the residential energy conserving improvements; or

(B) \$500 in the case of a residential building with one dwelling unit, \$800 in the case of a residential building with 2 dwelling units, \$1,100 in the case of a residential building with 3 dwelling units, or \$1,440 in the case of a residential building with 4 dwelling units,

whichever is less.

(b) The maximum amount of financial assistance which may be provided to an owner or tenant under this subtitle for the purchase and installation of residential energy conserving improvements in a multifamily residential building may not exceed—

(1) an amount equal to 20 percent of the cost of such improvements; or

(2) the sum of \$400 times the number of dwelling units in such building in the case of an owner, or \$400 in the case of a tenant, whichever is less.

(c) The maximum amount of financial assistance which may be provided under this subtitle to an owner of, or tenant in, a commer-

cial or agricultural building for the purchase and installation of commercial energy conserving improvements may not exceed an amount equal to 20 percent of the cost of such improvements or \$5,000, whichever is less.

MAXIMUM AMOUNTS OF FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

12 USC 3610.

SEC. 512. (a) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing residential building for the purchase and installation of a solar energy system in such building, or to a purchaser or builder of a newly constructed or substantially rehabilitated residential building which has such a system, may not exceed—

(1) in the case of an owner or purchaser whose income does not exceed an amount equal to 80 percent of the median area income—

(A) an amount equal to 60 percent of the cost of the solar energy system; or

(B) \$5,000 in the case of a residential building with one dwelling unit, \$7,500 in the case of a residential building with 2 dwelling units, or \$10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less;

(2) in the case of an owner or purchaser whose income exceeds an amount equal to 80 percent, but does not exceed an amount equal to 160 percent of the median area income—

(A) an amount equal to 50 percent of the cost of the solar energy system; or

(B) \$5,000 in the case of a residential building with one dwelling unit, \$7,500 in the case of a residential building with 2 dwelling units, or \$10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less;

(3) in the case of an owner or purchaser whose income exceeds an amount equal to 160 percent of the median area income—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) \$5,000 in the case of a residential building with one dwelling unit, \$7,500 in the case of a residential building with 2 dwelling units, or \$10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less; and

(4) in the case of a builder of a residential building—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) \$5,000 in the case of a residential building with one dwelling unit, \$7,500 in the case of a residential building with 2 dwelling units, or \$10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less.

(b) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing multifamily residential building for the purchase and installation of a solar energy system in such building, or to a purchaser of a newly constructed or substantially rehabilitated multifamily residential building which has such a system, either—

(1) may not exceed—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) the sum of \$2,500 times the number of dwelling units in such building, whichever is less; or

(2) if the owner or purchaser certifies pursuant to procedures established by the Board that a majority of the dwelling units in such building are occupied by tenants whose income does not exceed an amount equal to 80 percent of the median area income, may not exceed—

(A) an amount equal to 60 percent of the cost of the solar energy system; or

(B) the sum of \$2,500 times the number of dwelling units in such building, whichever is less.

(c) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing commercial or agricultural building for the purchase and installation of a solar energy system in such building, or to a purchaser of a newly constructed or substantially rehabilitated commercial or agricultural building which has such a system, may not exceed an amount equal to 40 percent of the cost of the solar energy system or \$100,000, whichever is less.

(d) In the case of financial assistance provided under this subtitle for the purchase and installation of a solar energy system in a building or for the purchase of a building which has such a system—

(1) with respect to any active type solar energy system (subject to the limitations on the maximum amounts of such assistance contained in subsections (a), (b), and (c)) the amount of such assistance provided after January 1, 1983, shall vary by the estimated amount of energy to be saved by the use of such system, unless the Board determines that such variance is not practicable; and

Active type solar energy system.

(2) with respect to any passive type solar energy system (subject to the limitations on the maximum amounts of such assistance contained in subsections (a), (b), and (c)) the amount of such assistance shall vary (to the extent practicable) by the estimated amount of energy to be saved by the use of such system, unless the Board determines that such variance is not practicable; and

in the case of a residential building, the amount of such assistance shall not exceed—

(A) \$7,000 in the case of a residential building with 1 or 2 dwelling units, \$10,000 in the case of a residential building with 3 or 4 dwelling units, \$100,000 in the case of a commercial or agricultural building, or the sum of \$2,500 times the number of dwelling units in a multifamily residential building in the case of a multifamily building.

Passive type solar energy system.

GENERAL CONDITIONS ON FINANCIAL ASSISTANCE FOR LOANS

SEC. 513. Financial assistance may be provided by a financial institution under this subtitle with respect to a loan only if—

12 USC 3611.

(1) the loan bears a rate of interest acceptable to the Board;

(2) the security for the loan meets the requirements of the Board;

(3) in the case of prepayment of interest by the Bank with respect to a loan, the financial institution agrees to repay to the Bank that portion of such prepayment which is in excess of the

Interest prepayment, waiver.

actual interest due on the loan at the time the borrower fails to meet his or her obligation under the loan, except that the Bank may waive the repayment where such excess is minimal; and

(4) the borrower agrees to certify to the financial institution that the borrower has used the proceeds of the loan to purchase and install a solar energy system or residential or commercial energy conserving improvements, or to purchase a building with such a system, immediately after such purchase and installation or purchase of a building, which certification shall be made available to the Bank by the financial institution upon the request of the Board.

**CONDITIONS ON FINANCIAL ASSISTANCE FOR RESIDENTIAL AND
COMMERCIAL ENERGY CONSERVING IMPROVEMENTS**

12 USC 3612.

SEC. 514. (a) In addition to the conditions contained in section 513, financial assistance may be provided under this subtitle to an owner or tenant with respect to a loan made for the purchase and installation of residential or commercial energy conserving improvements in a building only if—

Term of
repayment.

(1) the term of repayment of the loan is not less than 5 years and does not exceed 15 years, except that the financial institution may establish a shorter term of repayment at the request of the borrower and that there shall be no penalty imposed on the borrower if the loan is repaid before the end of the term of repayment;

Warranty.

(2)(A) the manufacturer of such residential or commercial energy conserving improvements shall, in connection with such improvements, warrant in writing that the owner or tenant receiving the proceeds of such loan, the installation contractor who installs the improvements, and the supplier of the improvements shall (for those improvements found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such residential or commercial energy conserving improvements shall, in connection with such improvements, provide, at a minimum, to the owner or tenant receiving the proceeds of such loan a warranty equivalent to that required under clause (A), and (C) the contractor for the installation of such residential or commercial energy conserving improvements shall, in connection with such improvements, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time;

(3) the residential or commercial energy conserving improvements are installed in a building which was completed before January 1, 1980;

(4) in the case of a loan made to a tenant, the owner of such building agrees in writing to the installation of such residential or commercial energy conserving improvements before the making of the loan;

(5) in the case of a loan made for the purchase and installation of residential energy conserving improvements, the financial institution informs the borrower before the loan is made of the availability of residential energy audits;

(6) in the case of a loan made for the purchase and installation of commercial energy conserving improvements in a commercial or agricultural building, the borrower submits to the financial institution before the loan is made a copy of a commercial energy audit of such building;

Commercial
energy building
audit.

(7) in the case of a loan made to an owner of, or tenant in, a residential building, or a tenant in a multifamily residential building, the income of such owner or tenant does not exceed 150 percent of the median area income; and

(8) in the case of a loan made to an owner who occupies or a tenant of a commercial or agricultural building, the gross annual sales of such owner or tenant are not more than \$1,000,000 during the fiscal year of such owner or tenant preceding the fiscal year in which such loan is made.

(b) Financial assistance may be provided by a financial institution under this subtitle in the form of a grant to an owner or tenant only if—

Owner or tenant
grants.

(1) the owner or tenant has income which does not exceed 80 percent of the median area income;

(2) the owner or tenant certifies to the financial institution, as prescribed by the Board, that financial resources are available to the owner or tenant which when added to the financial assistance provided under this subtitle will be sufficient to pay the cost of the residential energy conserving improvements purchased and installed with such grant;

(3) the total cost of the residential energy conserving improvements to be purchased and installed with such grant exceeds \$250;

(4) the supplier or contractor who sells or installs the residential energy conserving improvements purchased and installed with such grant is included on a list provided under section 213(a) of the National Energy Conservation Policy Act;

Post, p. 742.
Warranty.

(5)(A) the manufacturer of the residential energy conserving improvements to be purchased and installed with such grant shall, in connection with such improvements, warrant in writing that the owner or tenant receiving such grant, the installation contractor who installs the improvements, and the supplier of the improvements shall (for those improvements found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such residential energy conserving improvements shall, in connection with such improvements, provide, at a minimum, to the owner or tenant receiving such grant a warranty equivalent to that required under clause (A), and (C) the contractor for the installation of such residential energy conserving improvements shall, in connection with such improvements, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time;

(6) the financial institution informs the owner or tenant of the availability of residential energy audits;

(7) in the case of a grant made to a tenant, the owner of the building in which the residential energy conserving improve-

ments are to be installed agrees in writing to the installation before the making of the grant;

(8) the owner or tenant agrees to certify to the financial institution, immediately after such installation, that such owner or tenant has purchased and installed with the grant residential energy conserving improvements, which certification shall be available to the Bank upon request; and

(9) any residential energy conserving improvements purchased and installed with such grant are purchased and installed in a residential, or multifamily residential, building which was completed before January 1, 1980.

CONDITIONS ON FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

12 USC 3613.

Sec. 515. (a) In addition to the conditions contained in section 513, financial assistance may be provided under this subtitle to an owner or builder with respect to a loan made for the purchase and installation of a solar energy system, or to a purchaser for the purchase of a newly constructed or substantially rehabilitated building with such a system, only if—

Term of loan
repayment.

(1) the term of repayment of the loan—

(A) in the case of a residential building, is not less than 5 years in the case of an owner or purchaser, and does not exceed 30 years; or

(B) in the case of a multifamily residential building, commercial building, or agricultural building, is not less than 5 years and does not exceed 40 years,

except that the financial institution may establish a shorter term of repayment at the request of the borrower and that there shall be no penalty imposed on the borrower if the loan is repaid before the end of the term of repayment;

Warranty.

(2)(A) the manufacturer of such solar energy system, shall, in connection with such system, warrant in writing that the owner, builder, or purchaser receiving the proceeds of the loan, the installation contractor who installs the system, and the supplier of the system shall (for those solar energy systems found within 3 years from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such solar energy system shall, in connection with such system, provide, at a minimum, to such owner, builder, or purchaser a warranty equivalent to that required under clause (A), (C) the contractor for the installation of such solar energy system shall, in connection with such system, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time, and (D) the contractor for the installation of such solar energy system shall provide an onsite inspection of the system and its components for the purpose of discovering and remedying any defects during the 15 day period before the expiration of the warranty under clause (C), if the Board decides to require such an inspection;

(3) in the case of a loan made to a purchaser or builder of a newly constructed or substantially rehabilitated residential or multifamily residential building, the purchaser or builder pro-

vides certification that the building meets or exceeds the cost-effective energy conservation standards established by the Secretary of Housing and Urban Development, which are in effect on the date of the enactment of this subtitle and as such standards may be revised after such date by the Secretary after consultation with the Board, the Secretary of Energy, the Secretary of Agriculture, the National Institute of Building Sciences, the National Bureau of Standards, and any other Federal agency which is responsible for developing such standards; and

(4) in the case of a loan made to an owner of an existing residential building after December 31, 1985, the income of such owner does not exceed an amount equal to 250 percent of the median area income.

(b)(1) In addition to the conditions contained in section 513 and subsection (a), financial assistance may be provided by a financial institution to a builder under this subtitle for the purchase and installation of a solar energy system in a residential building only if—

(A) the Board determines that—

(i) in order to encourage the construction or substantial rehabilitation of a greater number of residential buildings containing solar energy systems it is necessary to provide financial assistance under this subtitle directly to builders;

(ii) providing any financial assistance under this subtitle directly to builders is a more effective expenditure of such assistance to encourage the construction or substantial rehabilitation of residential buildings containing solar energy systems than providing such assistance only to the purchasers of such buildings; and

(iii) the Board, in consultation with the Secretary of the Treasury, is able to establish a procedure which will prevent the purchaser (who buys the building from the builder) of a residential building for which a builder received financial assistance under this subtitle from receiving additional assistance under this subtitle for the same expenditures for which the builder received assistance and from being allowed a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954 for such expenditures;

Additional
assistance,
prohibition.

(B) the Board establishes a procedure which prevents the purchaser (who buys the building from the builder) of a residential building for which a builder received financial assistance under this subtitle from receiving additional assistance under this subtitle for the same expenditures for which the builder received assistance and from being allowed a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954 for such expenditures;

26 USC 38, 44C.
Additional
assistance,
prohibition.

(C) the builder agrees to, and does, disclose to the purchaser (who buys the building from the builder) in writing at the time of signing the sales contract for such building—

(i) the expenditures with respect to such building for which the builder received financial assistance under this subtitle; and

(ii) that the purchaser may not be allowed a credit against taxes for such expenditures under section 38 or section 44C of the Internal Revenue Code of 1954; and

(D) in addition to any other information required by this subtitle to be provided, the builder agrees to, and does, provide to

26 USC 38, 44C.

Subsidized
energy
financing.Payments to
utility.

the Bank such information as the Board determines, in consultation with the Secretary of the Treasury, is necessary to assure that the purchaser (who buys the building from the builder) is not allowed a credit against taxes for such expenditures under section 38, or section 44C, of the Internal Revenue Code of 1954.

(2) Any expenditures, made by a builder for the purchase and installation of a solar energy system in a building, for which the builder received financial assistance under this subtitle shall be considered expenditures from subsidized energy financing by the purchaser (who buys such building from the builder) for purposes of section 38 and section 44C of the Internal Revenue Code of 1954.

(c) Payments may be made to a utility for the provision of financial assistance under this subtitle for the purchase and installation of a solar energy system only if the financial assistance is used for such purchase and installation in existing buildings.

(d) In providing financial assistance with respect to loans for newly constructed and substantially rehabilitated residential buildings with solar energy systems, the Board shall establish a priority for residential buildings which contain at least a solar space heating or cooling system, except in areas or regions of the United States where it is impractical or inefficient to establish such a priority.

LIMITATIONS ON THE PROVISION OF FINANCIAL ASSISTANCE FOR RESIDENTIAL AND COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

12 USC 3614.

Sec. 516. (a) An amount equal to not less than 80 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(a) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of residential energy conserving improvements in residential and multifamily residential buildings.

(b)(1) An amount equal to not less than 15 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(a) shall be provided during such fiscal year for financial assistance for the purchase and installation of residential energy conserving improvements in residential buildings owned by individuals whose income is less than 80 percent of the median area income, or in multifamily residential buildings with a majority of the dwelling units occupied by such individuals.

(2) Funds made available during any fiscal year for the provision of financial assistance required by paragraph (1) which are not expended during such fiscal year shall be available during the following fiscal year for the provision of any financial assistance under this subtitle for residential and commercial energy conserving improvements.

(c) Any failure during any fiscal year to provide the amount of financial assistance required by subsection (a) or subsection (b) shall not delay the provision of other financial assistance under this subtitle.

LIMITATIONS ON THE PROVISION OF FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

12 USC 3615.

Sec. 517. (a)(1) The total amount of all payments made to utilities in any fiscal year for the provision of financial assistance under this subtitle for the purchase and installation of solar energy systems shall not exceed 10 percent of the amount of funds appropriated for

such fiscal year under the authorization contained in section 522(b), except that the Board may allow the total amount of such payments to exceed 10 percent of the amount of such funds, but not to exceed 20 percent of the amount of such funds, if the Board determines that it would further the purpose of this subtitle of encouraging the use of solar energy.

(2) The total amount of any payments provided to utilities for the provision of financial assistance under this subtitle for the purchase and installation of solar energy systems shall be distributed regionally, among utilities throughout the United States, in a reasonable manner.

(b) An amount equal to not less than 70 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(b) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of solar energy systems in residential and multifamily residential buildings and for the purchase of residential and multifamily residential buildings which have such systems.

(c)(1) An amount equal to not less than 5 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(b) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of solar energy systems in residential buildings owned by individuals whose income is less than 80 percent of the median area income, or in multifamily residential buildings with a majority of the dwelling units occupied by such individuals.

(2) Funds made available during any fiscal year for the provision of financial assistance required by paragraph (1) which are not expended during such fiscal year shall be available during the following fiscal year for the provision of any financial assistance under this subtitle for solar energy systems.

(d) Any failure during any fiscal year to provide the amount of financial assistance required by subsection (b) or subsection (c) shall not delay the provision of other financial assistance under this subtitle.

PROMOTION

Sec. 518. (a) The Bank shall promote the program established by this subtitle by informing financial institutions, builders, and consumers of the benefits of this program and by actively seeking their participation in the program. The Bank shall not duplicate any promotion or assistance activities undertaken by the Department of Energy, the Department of Housing and Urban Development, or other Federal agencies to encourage greater use of residential and commercial energy conserving improvements and solar energy systems, but shall cooperate with those agencies in—

12 USC 3616.

Duplication of activities.

(1) the dissemination of information relating to residential and commercial energy conserving improvements and solar technology and their applicability to new and existing construction;

(2) the development and dissemination of reliable appraisal techniques with respect to residential and commercial energy conserving improvements and solar energy systems;

(3) the provision of technical assistance to nonprofit entities, low-income groups, and local governments in the use of financial assistance under this subtitle to undertake solar and conservation strategies; and

(4) the provision of such other assistance and information as the Board determines is necessary to encourage the use of residential and commercial energy conserving improvements and solar energy systems.

(b) The Bank shall seek the advice and assistance of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association in coordinating the programs of the Bank with the secondary market for loans used to finance the purchase and installation of residential and commercial energy conserving improvements and solar energy systems.

(c) Where possible the Bank shall coordinate its promotional program with promotional and assistance programs undertaken by State, regional, and local governments.

(d) The Secretary is authorized to use any available means of communication to accomplish the goals of this section by using the electronic media, print media, and the United States Postal Service.

REPORTS

Submittal to
Congress and
President.
12 USC 3617.

SEC. 519. (a) The Board shall submit an annual report, to the Congress and to the President of the United States which includes, among other matters, the views of the President of the Bank, the Energy Conservation Advisory Committee, and the Solar Energy Advisory Committee, with respect to—

(1) the operation of the Bank during the previous year;

(2) the problems of the energy conservation and solar energy industries, the Federal Government, and financial institutions which may be inhibiting the operation of the Bank or the acceptance by the public of the use of residential and commercial energy conserving improvements and solar energy systems;

(3) the cost effectiveness of the program in terms of expenditure, specific residential and commercial energy conserving improvements, and energy savings, using statistically valid samples of the improvements assisted under this subtitle;

(4) the relative number of persons from various income groups who have received financial assistance under this subtitle;

(5) the total energy savings achieved because of the assistance provided under this subtitle, based on an estimate of such savings using a statistically valid sample; and

(6) recommendations for improvements in the operation of the Bank.

Submittal to
Congress.

(b) The Board shall submit to the Congress not later than 2 years after the date of the enactment of this subtitle a report on the limitation on the amount of financial assistance provided to utilities pursuant to section 517(a), including the recommendations of the Board on the continuation of the limitation and the level of such limitation.

RULES AND REGULATIONS

12 USC 3618.

SEC. 520. As soon as practicable, but not later than 180 days after the date of the enactment of this subtitle, the Board shall issue such final rules and regulations as the Board determines are necessary to carry out this subtitle, including rules and regulations to assure that there will be no fraud in the provision of financial assistance through grants under this subtitle, except that any final rules and regulations with respect to multifamily residential, commercial, or agricultural

buildings may be issued later than 180 days after such date but not later than 270 days after such date.

PENALTIES

SEC. 521. Any person who knowingly makes any false statement or misrepresents any material fact with respect to any financial assistance provided under this subtitle, or fails to make any disclosure or statement required by this subtitle, shall be fined not more than \$10,000 or imprisoned not more than one year, or both, for each offense. 12 USC 3619.

FUNDING

SEC. 522. (a) There is authorized to be appropriated to provide financial assistance under this subtitle for the purchase and installation of residential and commercial energy conserving improvements— Appropriation authorization. 12 USC 3620.

(1) the sum of \$200,000,000 for the fiscal year ending on September 30, 1981, of which not more than \$10,000,000 may be used to carry out section 518;

(2) the sum of \$625,000,000 for the fiscal year ending on September 30, 1982, of which not more than \$7,500,000 may be used to carry out section 518;

(3) the sum of \$800,000,000 for the fiscal year ending on September 30, 1983, of which not more than \$7,500,000 may be used to carry out section 518; and

(4) the sum of \$875,000,000 for the fiscal year ending on September 30, 1984, of which not more than \$7,500,000 may be used to carry out section 518.

(b) There is authorized to be appropriated to provide financial assistance under this subtitle for the purchase and installation of solar energy systems— Appropriation authorization.

(1) the sum of \$100,000,000 for the fiscal year ending on September 30, 1981, of which not more than \$10,000,000 may be used to carry out section 518;

(2) the sum of \$200,000,000 for the fiscal year ending on September 30, 1982, of which not more than \$7,500,000 may be used to carry out section 518; and

(3) the sum of \$225,000,000 for the fiscal year ending on September 30, 1983, of which not more than \$7,500,000 may be used to carry out section 518.

(c) Any funds appropriated under the authorizations contained in this section shall remain available until expended.

Part 2—Secondary Financing

AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE LOANS AND ADVANCES OF CREDIT FOR RESIDENTIAL ENERGY CONSERVING IMPROVEMENTS OR SOLAR ENERGY SYSTEMS

SEC. 531. (a) Section 315(a) of the Federal National Mortgage Association Charter Act is amended— 12 USC 1723g.

(1) by striking out “(1) Whenever” and all that follows through “direct the Association” and inserting in lieu thereof “Unless the Board of Directors of the Solar Energy and Energy Conservation Bank established in section 505 of the Solar Energy and Energy Conservation Bank Act finds it unnecessary to utilize this section

Ante, p. 722.

- in order to advance the national program of energy conservation in residential buildings, the Board shall direct the Bank"; and
 (2) by striking out paragraph (2).
- 12 USC 1723g. (b) Section 315(b) of such Act is amended—
 (1) by striking out "Secretary" and "Association" and inserting in lieu thereof "Board" and "Bank", respectively; and
 (2) by striking out "which are insured under title I" and all that follows through the period at the end thereof and inserting in lieu thereof the following: ", including loans and advances made by public utilities in accordance with the requirements of title II of the National Energy Conservation Policy Act, which are made for the purpose of financing, in whole or in part, the purchase and installation of residential energy conserving improvements or solar energy systems in residential buildings."
- 42 USC 8211. (c) Section 315(c) of such Act is amended by striking out "Association" and "Association's" each time they appear and inserting in lieu thereof "Bank" and "Bank's", respectively.
- 12 USC 1723g. (d) Section 315(d) of such Act is amended—
 (1) by inserting "or advance of credit" after "loan" each time it appears; and
 (2) by striking out "Association" and inserting in lieu thereof "Bank".
- (e) Section 315(e) of such Act is amended by striking out "Association" and inserting in lieu thereof "Bank".
- (f) Section 315(f) of such Act is amended by striking out "Secretary" and inserting in lieu thereof "Board".
- (g) Section 315(g) of such Act is amended—
 (1) by striking out "and" at the end of paragraph (1);
 (2) by inserting "residential" before "energy conserving" in paragraph (2);
 (3) by inserting "or solar energy system" after "improvements" in paragraph (2);
 (4) by inserting ", in whole or in part," after "financed" in paragraph (2);
 (5) by striking out "of this section." in paragraph (2) and inserting in lieu thereof "of the Solar Energy and Energy Conservation Bank Act;" and;
 (6) by adding the following new paragraphs after paragraph (2):
 "(3) the term of repayment of such loan or advance of credit is not less than 5 years and not more than 15 years, except that there shall be no penalty imposed if the borrower repays the loan before the established repayment period;
 "(4) the interest rate charged and the security required with respect to such loan or advance of credit is acceptable to the Board;
 "(5) the amount of such loan or advance of credit does not exceed \$15,000;
 "(6) the entity from which such loan or advance of credit is purchased agrees to loan or advance credit for the purpose specified in subsection (b) in an amount equal to the amount of the loan or advance of credit which is purchased; and
 "(7) such loan or advance of credit meets other requirements established by the Board as necessary to carry out this section in an efficient and effective manner."
- Ante, p. 719. (h) Section 315 of such Act is amended by adding the following new subsection at the end thereof:
- 12 USC 1723h. "(h) For purposes of this section and section 316—

"(1) the term 'Bank' means the Solar Energy and Energy Conservation Bank established under section 505 of the Solar Energy and Energy Conservation Bank Act; Definitions.

"(2) the term 'Board' means the Board of Directors of the Bank; Ante, p. 722.

"(3) the term 'residential building' has the meaning given such term in section 504(2) of the Solar Energy and Energy Conservation Bank Act;

Ante, p. 719.

"(4) the term 'residential energy conserving improvements' has the meaning given such term in section 504(6) of the Solar Energy and Energy Conservation Bank Act; and

"(5) the term 'solar energy system' has the meaning given such term in section 504(8) of the Solar Energy and Energy Conservation Bank Act."

(i) The section heading of section 315 of such Act is amended to read as follows:

"AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE LOANS AND ADVANCES OF CREDIT FOR ENERGY CONSERVING IMPROVEMENTS OR SOLAR ENERGY SYSTEMS".

AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE MORTGAGES SECURED BY NEWLY CONSTRUCTED HOMES WITH SOLAR ENERGY SYSTEMS

SEC. 532. (a) Section 316(a) of the Federal National Mortgage Association Charter Act is amended—

12 USC 1723h.

(1) by striking out "The Secretary" and inserting in lieu thereof "Unless the Board of Directors of the Solar Energy and Energy Conservation Bank established in section 505 of the Solar Energy and Energy Conservation Bank Act finds it unnecessary to utilize this section in order to advance the national program of energy conservation through the use of solar energy systems in residential buildings, the Board";

(2) by striking out "Association" and inserting in lieu thereof "Bank"; and

(3) by striking out "loans and advances of credits" and inserting in lieu thereof "mortgages".

(b) Section 316(b) of such Act is amended—

(1) by striking out "Secretary", "Association", and "loans and advances of credit" in the first sentence and inserting in lieu thereof "Board", "Bank", and "mortgages", respectively;

(2) by striking out "which are made to owners" in the first sentence and all that follows through the period at the end of such sentence and inserting in lieu thereof "which are secured by newly constructed one- to four-family dwelling units with solar energy systems and residential energy conserving improvements meeting or exceeding cost-effective energy conservation standards established by the Secretary of Housing and Urban Development.";

(3) by striking out "loan or advance of credit" the first time it appears in the second sentence and inserting in lieu thereof "mortgage";

(4) by striking out "fifteen" in paragraph (1) and inserting in lieu thereof "thirty";

(5) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) the interest rate charged with respect to such mortgage is acceptable to the Board;

"(3) the principal amount of such mortgage does not exceed the principal amount which could be insured under section 203(b) of the National Housing Act with respect to the dwelling unit concerned;";

(6) by striking out "loan or advance of credit" in paragraphs (1), (4), and (5) and inserting in lieu thereof "mortgage";

(7) by striking out "Secretary" in paragraph (4) and inserting in lieu thereof "Board";

(8) by striking out "and" at the end of paragraph (5); and

(9) by striking out paragraph (6) and inserting in lieu thereof the following new paragraphs:

"(6) the dwelling which secures such mortgage is purchased after the date of enactment of the Solar Energy and Energy Conservation Bank Act; and

"(7) such mortgage meets other requirements established by the Board as necessary to carry out this section in an efficient and effective manner."

(c) Section 316(c) of such Act is amended by striking out "Association" and "Association's" each time they appear and inserting in lieu thereof "Bank" and "Bank's", respectively.

(d) Section 316(d) of such Act is amended by striking out "loan" and "Association" each time they appear and inserting in lieu thereof "mortgage" and "Bank", respectively.

(e) Section 316(e) of such act is amended by striking out "Association" and "loans and advances of credit" and inserting in lieu thereof "Bank" and "mortgages", respectively.

(f) Section 316(f) of such Act is amended by striking out "Secretary" and "\$100,000,000" and inserting in lieu thereof "Board" and "\$300,000,000", respectively.

(g) Section 316(g) of such Act is amended by striking out "Secretary", "Association", "loans and advances of credit", "loan or advance", and "loans and advances" and inserting in lieu thereof "Board", "Bank", "mortgages", "mortgage", and "mortgages", respectively.

(h) Section 316 of such Act is amended—

(1) by striking out subsections (h), (i), and (j); and

(2) by striking out the section heading and inserting in lieu thereof the following:

"AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE MORTGAGES SECURED BY NEWLY CONSTRUCTED HOMES WITH SOLAR ENERGY SYSTEMS".

REPEAL

17. **SEC. 533.** Section 314 of the Federal National Mortgage Association Charter Act is repealed.

SECONDARY FINANCING BY FEDERAL HOME LOAN MORTGAGE CORPORATION AND BY FEDERAL NATIONAL MORTGAGE ASSOCIATION

18. **SEC. 534.** (a)(1) Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act is amended by inserting the following before the period at the end of the first sentence: "or from any public utility

carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act if the residential measure to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate".

42 USC 8211.

Infra.

Section 302(h) of such Act is amended by inserting ", or made by public utility and purchased by the Corporation pursuant to the provisions of section 305(a)(1)," after "credit for such purposes" in third sentence.

42 USC 1451.

Ante. p. 740.

Section 302(h)(3) of the Federal National Mortgage Association Reform Act is amended by inserting the following before the period at the end of the first sentence: ", including loans or advances of money made, by any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act, for the purpose of financing the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in a residential building".

42 USC 1717.

SUBTITLE B—UTILITY PROGRAM

DEFINITIONS

c. 541. Section 210 of the National Energy Conservation Policy Act is amended by striking out paragraph (9) and inserting in lieu thereof the following:

42 USC 8211.

"(9) The term 'residential building' means any building used for residential occupancy which—

"(A) is not a new building to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act apply, and

42 USC 6833, 6834

"(B) contains at least one but not more than four dwelling units and has a system for heating or cooling, or both, except that, after January 1, 1982, such term shall also include any building which contains more than four dwelling units unless such building contains a heating or cooling system, or both, which is a central system."

LIST OF SUPPLIERS AND CONTRACTORS—REQUIRED WARRANTY

c. 542. (a) Section 210(11) of the National Energy Conservation Policy Act is amended by striking out the last sentence.

42 USC 8211.

Section 212(b) of such Act is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4) and by inserting the following new paragraph after paragraph (2):

42 USC 8213.

"(3) shall include provisions requiring that—

"(A) the manufacturer of any residential energy conservation measure offered under a utility program shall, in connection with such measure, warrant in writing that the residential customer for whom the measure is installed, the installation contractor who installs the measure, and the supplier of the measure shall (for those measures found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be



entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials;

"(B) the supplier of any residential energy conservation measure offered under a utility program shall, in connection with such measure, provide, at a minimum, to any person who purchases the measure from such supplier a warranty equivalent to that required under subparagraph (A); and

"(C) the contractor for the installation of any residential energy conservation measure offered under a utility program shall, in connection with such measure, warrant in writing that, at a minimum, any defect in materials, manufacture, design or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time; and".

42 USC 8214.

(c) Section 213(a)(2)(B) of such Act is amended by inserting "and who agrees to comply with the provisions promulgated under section 212(b)(3)" after "(E)".

Ante, p. 741.

42 USC 8221.

(d) Section 220(d) of such Act is amended to read as follows: "(d) WARRANTIES.—With respect to section 212(b)(3) concerning warranties, all Federal and State laws otherwise applicable to such warranties shall apply, except to the extent inconsistent with such section."

STATE LIST OF FINANCIAL INSTITUTIONS

42 USC 8214.

SEC. 543. Section 213(a)(3) of the National Energy Conservation Policy Act is amended by inserting the following before the semicolon at the end thereof: ", and provides that such list shall include a notation informing customers that financial assistance under the Solar Energy and Energy Conservation Bank Act may be available from such lending institutions".

Ante, p. 719.

TREATMENT OF UTILITY COSTS

42 USC 8216.

SEC. 544. Section 215 of the National Energy Conservation Policy Act is amended—

(1) by striking out everything that follows "subsection (b) to be" in subsection (c)(1)(C) and inserting in lieu thereof the following: "recovered in the manner specified by the State regulatory authority which has ratemaking authority over such utility (or in the case of a nonregulated utility in the manner specified by such nonregulated utility); except that the amount that may be recovered directly from a residential customer for whom the activities described in subsection (b) are performed shall not exceed a total of \$15 per dwelling unit or the actual cost of such activities, whichever is less; in determining the amount to be recovered directly from customers as provided under this subparagraph, the State regulatory authority (in the case of a regulated utility) or the utility (in the case of a nonregulated utility) shall take into consideration, to the extent practicable, the customers' ability to pay and the likely levels of participation in the utility program which will result from such recovery.";

(2) by striking out subsection (c)(1)(D);

(3) by striking out subsection (c)(2)(A);

(4) by striking out "(B)" in subsection (c)(2)(B) and inserting in lieu thereof "(2)(A)";

(5) by striking out “(C)” in subsection (c)(2)(C) and inserting in lieu thereof “(B)”;

(6) by striking out subsection (f) and inserting in lieu thereof the following:

“(f) **LOANS.**—In the case of a loan which is arranged by a public utility under subsection (b)(1)(C), the utility, at the request of the person making such loan, shall permit repayment of the loan as part of the periodic utility bill. The utility may recover from the person making such loan the cost incurred by the utility in carrying out such manner of repayment.”.

TAX TREATMENT

SEC. 545. Section 216 of the National Energy Conservation Policy Act is amended by adding the following new subsection at the end thereof: 42 USC 8217.

“(j) **TAX TREATMENT.**—The value of any subsidy provided by a utility to any residential customer for the purchase and installation of residential energy conservation measures shall not be included in the gross income of such customer for purposes of the Internal Revenue Code of 1954, and such customer shall not receive any increase in basis under the Internal Revenue Code of 1954 which is attributable to any such subsidy.”. 26 USC 1 et seq.

SUPPLY, INSTALLATION, AND FINANCING BY PUBLIC UTILITIES

SEC. 546. (a) Section 216 of the National Energy Conservation Policy Act is amended— 42 USC 8217.

(1) by striking out the section heading and inserting in lieu thereof the following:

“**SEC. 216. SUPPLY AND INSTALLATION BY PUBLIC UTILITIES.**”;

(2) by striking out subsection (a) and inserting in lieu thereof the following:

“(a) **PROHIBITION ON SUPPLY AND INSTALLATION BY PUBLIC UTILITIES.**—Except as provided in this section, no public utility may supply or install a residential energy conservation measure for any residential customer.”;

(3) by striking out “(1)” in subsection (b); and

(4) by striking out subsection (c) and inserting in lieu thereof the following:

“(c) **EXEMPTION FROM PROHIBITION ON SUPPLY AND INSTALLATION.**—(1) The prohibition contained in subsection (a) shall not apply to any residential energy conservation measure supplied or installed by a public utility through contracts between such utility and independent suppliers or contractors where the customer requests such supply or installation and each such supplier or contractor—

“(A) is on the list of suppliers and contractors referred to in section 213(a)(2);

“(B) is not subject to the control of the public utility, except as to the performance of such contract, and is not an affiliate or a subsidiary of such utility; and

“(C) if selected by the utility, is selected in a manner consistent with paragraph (2).

“(2) As provided under the provisions described in section 213(b)(2)(D), activities of a public utility under paragraph (1)—

“(A) may not involve unfair methods of competition;

Ante, p. 742.

"(B) may not have a substantial adverse effect on competition in the area in which such activities are undertaken nor result in providing to any supplier or contractor an unreasonably large share of contracts for the supply or installation of residential energy conservation measures;

Ante, p. 742.

"(C) shall be undertaken in a manner which provides, subject to reasonable conditions the utility may establish to insure the quality of supply and installation of residential energy conservation measures, that any financing by the utility of such measures shall be available to finance supply or installation by any contractor on the lists referred to in section 213(a)(2) or to finance the purchase of such measures to be installed by the customer;

"(D) to the extent practicable and consistent with subparagraphs (A), (B), and (C), shall be undertaken in a manner which minimizes the cost of residential energy conservation measures to such customers; and

"(E) shall include making available upon request a current estimate of the average price of supply and installation of residential energy conservation measures subject to the contracts entered into by the public utility under paragraph (1)."

42 USC 8214.

(b) Section 213(b)(2) of such Act is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new subparagraphs:

"(C) provisions to assure that, whenever any public utility undertakes to finance its lending program for residential energy conservation measures through financial institutions, the utility shall (to the extent such utility determines feasible, consistent with good business practice, and not disadvantageous to its customers) seek funds for such financing from financial institutions located throughout the area covered by the lending program; and

"(D) provisions to assure that, in the case of any residential energy conservation plan which permits or requires any such utility to supply or install any residential energy conservation measure, the procedures under which any such utility undertakes such supply or installation will be consistent with the requirements of section 216(c)."

Ante, p. 743.

(c) Section 213(a) of such Act is amended by striking out "and" at the end of paragraph (7), by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(9) requires any utility undertaking a program involving the supply or installation of any residential energy conservation measure as permitted under section 216(c) or providing financing for the purchase or installation of any such measure to notify the Secretary of Energy when such program becomes effective."

AUTHORITY TO MONITOR AND TERMINATE SUPPLY, INSTALLATION, AND FINANCING BY UTILITIES

42 USC 8217.

Sec. 547. Section 216(g) of the National Energy Conservation Policy Act is amended to read as follows:

Report to Congress.

"(g) **AUTHORITY TO MONITOR AND TERMINATE SUPPLY, INSTALLATION, OR FINANCING BY UTILITIES.**—(1) The Secretary, in consultation with the Federal Trade Commission, shall monitor financing, supply, and installation activities of public utilities in connection with

residential energy conservation measures and shall report annually to Congress on such activities. Each such report shall contain the comments of the Federal Trade Commission.

"(2) After the date of the enactment of this subsection, no public utility may make any loan or finance the purchase or installation of, or supply or install, any residential energy conservation measure if the Secretary has determined, after notice and opportunity for public hearing, and after consultation with the Federal Trade Commission, that—

"(A) such loans are being made, or supply or installations carried out, by such utility at unreasonable rates or on unreasonable terms and conditions, or

"(B) such loans made, or supply or installations carried out, by such utility have a substantial adverse effect upon competition or involve the use of unfair, deceptive, or anticompetitive acts or practices or are being carried out in a manner which does not comply with subsection (c)."

UNFAIR COMPETITIVE PRACTICES

Sec. 548. Nothing in any amendment made by this subtitle shall be construed to— 42 USC 8211 note.

(1) bar any person from taking any action with respect to any anticompetitive act or practice related to activities conducted under any program established under this title; or

(2) convey to any person immunity from civil or criminal liability, create defenses to actions under antitrust laws, or modify or abridge any private right of action under such laws.

EFFECTIVE DATE

Sec. 549. (a) The amendments made by this subtitle shall become effective on the date of the enactment of this Act. 42 USC 8211 note.

(b) As soon as practicable, but in no event later than 120 days after such date of enactment, the Secretary shall promulgate rules amending the regulations under section 212 of the National Energy Conservation Policy Act so that the amendments made by this subtitle will be carried out. Rules. Ante, p. 741.

(c) The provisions of section 218 of the National Energy Conservation Policy Act shall apply with respect to temporary programs proposed under such section after the effective date of this subtitle; except that, for the purposes of the application described in the first sentence of such section, the phrase "180 days after the promulgation of rules pursuant to section 212" shall refer to 180 days after the promulgation of rules required by subsection (b). 42 USC 8219.

(d) Nothing in this Act shall have the effect of delaying the date required for submission and approval or disapproval of residential energy conservation plans meeting the requirements of the National Energy Conservation Policy Act in effect before the enactment of this Act. 42 USC 8201 note.

RELATIONSHIP TO OTHER LAWS

Sec. 550. Section 220 of the National Energy Conservation Policy Act is amended by adding the following new subsection at the end thereof: Ante, p. 742.

"(e) **PUBLIC UTILITY HOLDING COMPANY ACT.**—For purposes of section 11(b)(1) of the Public Utility Holding Company Act of 1935, any financing, supply, or installation of residential energy conserva- 15 USC 79k.

tion measures under this part by a public utility company or utility holding company system subject to such Act shall be construed as an activity or business which is reasonably incidental or economically necessary or appropriate to the operations of the public utility company or utility holding company system."

SUBTITLE C—RESIDENTIAL ENERGY EFFICIENCY PROGRAM

PURPOSE

42 USC 8235
note.

SEC. 561. It is the purpose of this subtitle—

(1) to establish a program under which the Secretary of Energy may provide assistance to State and local governments to encourage up to four demonstration programs that make energy conservation measures available without charge to residential property owners and tenants under a plan designed to maximize the energy savings available in residential buildings in designated areas; and

(2) to demonstrate through such program prototype residential energy efficiency plans under which State and local governments, State regulatory authorities, and public utilities may participate in a cooperative manner with public or private entities to install energy conservation measures in the greatest possible number of residential buildings within their respective jurisdictions or service areas.

AMENDMENT TO THE NATIONAL ENERGY CONSERVATION POLICY ACT

SEC. 562. The National Energy Conservation Policy Act is amended by adding after section 255 the following new part:

"PART 5—RESIDENTIAL ENERGY EFFICIENCY PROGRAMS

42 USC 8235.

"SEC. 261. DEFINITION.

"As used in this part, the term 'residential building' means any building used as a residence which is not a new building to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act apply and which has a system for heating, cooling, or both.

42 USC 6833,
6834.

42 USC 8235a.

"SEC. 262. APPROVAL OF PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS AND PROVISION OF FINANCIAL ASSISTANCE FOR SUCH PROGRAMS.

"(a) **PLAN APPROVAL.**—The Secretary may approve any plan developed by a State or local government, for the establishment of a prototype residential energy efficiency program, which is designed to demonstrate the feasibility, economics, and energy conserving potential of such program, if an application for such plan is submitted pursuant to section 263, the application is approved pursuant to section 264, and the plan provides for—

"(1) the entering into a contract by a public utility with one or more persons not under the control of, and not affiliates or subsidiaries of, such utility for the implementation of a program to encourage energy conservation, including the supply and installation of the energy conservation measures as specified in such contract in residential buildings located in the portion of

the utility's service area designated by the contract, which contract includes the provisions described in subsection (b);

"(2) the selection by the public utility in a fair, open, and nondiscriminatory manner of the person or persons to contract with pursuant to paragraph (1);

"(3) the payment by the public utility to the person or persons contracted with under paragraph (1) of a specified price for each unit of energy saved by such utility as a result of the program during the period the contract is in effect, which price is based on the value to the utility of the energy saved;

"(4) the determination, by a procedure established by the State or local government developing the plan, of the amount of energy saved by a public utility as a result of the program carried out under the plan, which procedure is described in the contract;

Energy savings
procedure.

"(5) in the case of a regulated public utility, the approval in writing by the State regulatory authority exercising ratemaking authority over such utility of the contract described in paragraph (1), the manner of selection described in paragraph (2), the payment described in paragraph (3), and the procedure described in paragraph (4); and

"(6) the enforcement of the provisions of the contract, entered into pursuant to paragraph (1), which are required to be included pursuant to subsection (b).

"(b) **CONTRACT REQUIREMENTS.**—Any contract entered into by a public utility under subsection (a)(1) shall require any person or persons entering into such contract with a public utility to offer to the owner or occupant of each residential building in the portion of the utility's service area designated in the contract, without charge—

"(1) an inspection of such building to determine and inform such owner or occupant of—

Inspection.

"(A) the energy conservation measures which will be supplied and installed in such residential building pursuant to paragraph (2);

"(B) the savings in energy costs that are likely to result from the installation of such energy conservation measures;

"(C) suggestions (including suggestions developed by the Secretary) of energy conservation techniques, including adjustments in energy use patterns and modifications in household activities, which can be used by the owner or occupant of the building to save energy and which do not require the installation of energy conservation measures; and

"(D) the savings in energy costs that are likely to result from the adoption of such suggested energy conservation techniques;

"(2) the supply and installation, with the approval of the owner of the residential building, in such building in a timely manner of the energy conservation measures which are as specified in the contract and which the owner or occupant was informed (pursuant to the inspection under paragraph (1)) would be supplied and installed in such building; and

"(3) a written warranty that at a minimum any defect in materials, manufacture, design, or installation of any energy conservation measures supplied and installed pursuant to paragraph (2), found not later than one year after the date of installation, will be remedied without charge and within a reasonable period of time.

Written
warranty.

"(c) PROVISION OF FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to any State or local government to carry out any plan for the establishment of a prototype residential energy efficiency program if the plan is approved under subsection (a).

"(d) LIMITATION.—The Secretary may approve under subsection (a) not more than 4 plans for the establishment of prototype residential energy efficiency programs.

42 USC 8235b.

"SEC. 263. APPLICATIONS FOR APPROVAL OF PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS.

"Each application for the approval of a plan under section 262(a) for the establishment of a prototype residential energy efficiency program shall be submitted by a State or local government and shall include, at least—

"(1) a description of the plan, including the provisions of the plan specified in section 262(a) and a description of the portion of the service area of the public utility proposing to enter into a contract under section 262(a)(1) which is designated under the contract;

"(2) a description of the manner in which the provisions of the plan specified in section 262(a) are to be met;

"(3) a description of the contract to be entered into pursuant to section 262(a)(1) and the manner in which the requirements of the contract contained in section 262(b) are to be met;

"(4) the record of the public hearing conducted pursuant to section 264(a)(2); and

"(5) any other information determined by the Secretary to be necessary to carry out this part.

Public hearing record.

42 USC 8235c.

"SEC. 264. APPROVAL OF APPLICATIONS FOR PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS.

"(a) APPROVAL REQUIREMENTS.—The Secretary may approve an application submitted under section 263 for a plan establishing a prototype residential energy efficiency program only if—

"(1) the application is approved in writing—

"(A) by the public utility which is to enter into the contract under the plan;

"(B) by the State regulatory authority having ratemaking authority over such public utility, in the case of a regulated utility; and

"(C) by the Governor (or any State agency specifically authorized under State law to approve such plans) of the State whose government is submitting the application (if the application is submitted by a State government) or of the State in which the local government is located (if the application is submitted by a local government); and

"(2) the application has been published, a public hearing on the application has been conducted, after notice to the public, at which representatives of the public utility which is to enter into the contract under the plan, persons engaged in the supply or installation of residential energy conservation measures, and members of the public (including ratepayers of such public utility and other interested individuals) had an opportunity to provide comment on the application, and any amendments to the application, which may be made to take into account the proceedings of the hearing, are made.

“(b) FACTORS IN APPROVING APPLICATIONS.—The Secretary shall take into consideration in approving an application under subsection (a) for a plan establishing a prototype residential energy efficiency program—

“(1) the potential for energy savings from the demonstration of the program;

“(2) the likelihood that the value of the energy saved by public utilities under the program will be sufficient to cover the estimated cost of the energy conservation measures to be supplied and installed under the program;

“(3) the anticipated effects of the program on competition in the portion of the service area of the public utility designated in the contract entered into under the plan; and

“(4) such other factors as the Secretary determines are appropriate.

SEC. 265. RULES AND REGULATIONS.

42 USC 8235d.

“(a) PROPOSED RULES AND REGULATIONS.—The Secretary shall issue proposed rules and regulations to carry out this part not later than 20 days after the date of the enactment of this part.

“(b) FINAL RULES AND REGULATIONS.—The Secretary shall issue final rules and regulations to carry out this part not later than 90 days after the issuance of proposed rules and regulations under subsection (a).

SEC. 266. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION TO EXEMPT APPLICATION OF CERTAIN LAWS.

42 USC 8235e.

“The Federal Energy Regulatory Commission may exempt from any provisions in sections 4, 5, and 7 of the Natural Gas Act (17 U.S.C. 17c, 717d, and 717f) and titles II and IV of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341 through 3348 and 3391 through 3394) the sale or transportation, by any public utility, local distribution company, interstate or intrastate pipeline, or any other person, of any natural gas which is determined (in the case of a regulated utility, company, pipeline, or person) by the State regulatory authority having rate-making authority over such utility, company, pipeline, or person, or in the case of a nonregulated utility, company, pipeline, or person) by such utility, company, pipeline, or person, to have been conserved because of a prototype residential energy efficiency program which is established under a plan approved under section 262(a), if the Commission determines that such exemption is necessary to make possible the demonstration of such prototype residential energy efficiency program.

15 USC 717c,
711d, 717f.

SEC. 267. APPLICATION OF OTHER LAWS.

42 USC 8235f.

“(a) LACK OF IMMUNITY.—No provision contained in this part—

“(1) shall restrict any agency of the United States or any State from exercising its powers under any law to prevent unfair methods of competition and unfair or deceptive acts or practices;

“(2) shall provide to any person any immunity from civil or criminal liability;

“(3) shall create any defenses to actions brought under the antitrust laws; or

“(4) shall modify or abridge any private right of action under the antitrust laws.

“(b) UTILITY PROGRAMS UNDER PART 1.—Any public utility entering into a contract under a plan for the establishment of a prototype residential energy efficiency program approved under section 262(a)

42 USC 8211.

42 USC 8216.

shall not be required to carry out, with respect to any residential building located in the portion of the utility's service area designated in the contract, the actions required to be contained in such utility's program by subsections (a) and (b) of section 215, if the contract requires such actions (or equivalent actions as determined by the Secretary) to be taken.

"(c) **DEFINITION.**—For purposes of this section, the term 'antitrust laws' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9); and

"(5) sections 2, 3, and 4 of the Act entitled 'An Act to amend section 2 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U.S.C., title 15, sec. 13), and for other purposes' approved June 19, 1936 (15 U.S.C. 21a, 13a, and 13b, commonly known as the Robinson-Patman Antidiscrimination Act).

42 USC 8235g.

"SEC. 268. RECORDS AND REPORTS.

"(a) **RECORDS.**—Each State and local government submitting any application for a plan which is approved under section 262(a), and each public utility and person or persons entering into a contract under such a plan, shall keep such records and make such reports as the Secretary may require. The Secretary and the Comptroller General of the United States shall have access, at reasonable times and under reasonable conditions, to any books, documents, papers, records, and reports of each such State and local government, utility, and person or persons which the Secretary determines, in consultation with the Comptroller General of the United States, are pertinent to this part.

Submittal to
President and
Congress.

"(b) **REPORTS.**—The Secretary shall make an annual report to the President on the activities carried out under this part which shall be submitted to the Congress with the annual report on the activities of the Department of Energy required by section 657 of the Department of Energy Organization Act (42 U.S.C. 7267) and which shall contain—

"(1) an estimate of the total amount of energy saved as a result of the activities carried out under this part;

"(2) an estimate of the annual savings in energy anticipated as a result of each prototype residential energy efficiency program established under a plan approved under section 262(a);

"(3) an analysis, developed in consultation with the Federal Trade Commission and the Department of Justice, of the impact on competition of each prototype residential energy efficiency program established under a plan approved under section 262(a); and

"(4) if the Secretary determines that it is appropriate, an analysis of the impact of expanding the approval of plans under section 262(a) to establish prototype residential energy efficiency programs, and the provision of financial assistance to such programs, on a national basis and an assessment of the alternative methods by which such an expansion could be accomplished.

REVOKING APPROVAL OF PLANS AND TERMINATING FINANCIAL ASSISTANCE. 42 USC 6225h

Secretary shall revoke the approval of any plan under section 262(a) of the establishment of a program of residential energy conservation, and shall terminate the provision of financial assistance under section 262(c) to carry out such plan, if the Secretary determines, in consultation with the Federal Trade Commission and the State, that carrying out such

- (1) causes unfair methods of competition;
- (2) has a substantial adverse effect on competition in the service area of the public utility designated by the contract entered into under the plan; or
- (3) provides a supplier or contractor with an unreasonably large share of the contracts for the supply or installation of such equipment in such plan in the service area of the public utility by the contract entered into under such plan.

AUTHORIZATION OF APPROPRIATIONS

REVENUE OF APPROPRIATIONS.—The Secretary is authorized to be used to carry out this part—

- (1) the sum of \$10,000,000 for the fiscal year ending on September 30, 1981; and
- (2) the sum equal to \$10,000,000 for the fiscal year ending on September 30, 1982.

REVENUE.—Any funds appropriated under this section shall remain available until expended.

AMENDMENT TO THE TABLE OF CONTENTS

B. The table of contents of the National Energy Conservation Policy Act is amended by inserting after the following new items:

Part 5—Residential Energy Efficiency Programs

Definition.
Approval of plans for residential energy conservation programs and provision of financial assistance for such programs.
Applications for approval of plans for residential energy conservation programs.
Approval of applications for loans for residential energy conservation programs.
Refunds and repayment.
Authority of the Federal Energy Regulatory Commission to carry out the purposes of this part.
Application of other laws.
Reports and records.
Revoking approval of plans and terminating financial assistance.
Authorization of appropriations.

AT. 752

PUBLIC LAW 96-294—JUNE 30, 1980

**SUBTITLE D—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS
AND MULTIFAMILY DWELLINGS**

AMENDMENT TO THE NATIONAL ENERGY CONSERVATION POLICY ACT

SEC. 565. The National Energy Conservation Policy Act is amended by adding at the end thereof the following new title:

**“TITLE VII—ENERGY CONSERVATION FOR COMMERCIAL
BUILDINGS AND MULTIFAMILY DWELLINGS**

“PART 1—GENERAL PROVISIONS

8281. **“SEC. 710. DEFINITIONS.**

741. **“(a) APPLICABILITY OF TITLE II DEFINITIONS.**—The definitions in section 210 are applicable to this title, except as otherwise provided in this section.

“(b) ADDITIONAL DEFINITIONS.—As used in this title—

“(1) The term ‘building heating supplier’ means any person engaged in the business of selling No. 2, No. 4, or No. 6 heating oil, kerosene, or propane to eligible customers.

“(2) The term ‘commercial building’ means a building—

“(A) which was completed on or before the date of enactment of this title,

“(B) which is used primarily for carrying out a business (including a nonprofit business) or for carrying out the activities or administration of a State or local government,

“(C) which is not used primarily for the manufacture or production of products, raw materials, or agricultural commodities, and

“(D) for which the average monthly use of energy for the calendar year 1980 is less than 4,000 kilowatt hours of electricity or 1,000 therms of natural gas or the Btu equivalent thereof of any other fuel;

8241. **except that such term does not include a Federal building as defined in section 521(2).**

“(3) The term ‘multifamily dwelling’ means a building which is used for residential occupancy, was completed on or before the date of enactment of this title, and contains five or more dwelling units and a central heating or central cooling system.

“(4) The term ‘energy efficient improvements’ means any change in the operation or maintenance of a commercial building or multifamily dwelling, which change is designed primarily to reduce energy consumption in such building or dwelling and which has been identified by the Secretary in the rules promulgated under section 712(a) or approved by the Secretary for consideration in the energy audits offered to eligible customers under section 731, 732, or 741.

“(5) The term ‘commercial energy conservation measure’ means an installation or modification of an installation which is primarily designed to reduce the consumption of petroleum, natural gas, or electrical power in a multifamily dwelling or commercial building, including—

“(A) caulking and weatherstripping;

“(B) the insulation of the building or dwelling structure and systems within the building or dwelling;

"(C) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflecting window and door systems, glazing, reductions in glass area, and other window and door system modifications;

"(D) automatic energy control systems;

"(E) equipment, associated with automatic energy control systems, which is required to operate variable steam, hydraulic, or ventilating systems;

"(F) furnace, or utility plant and distribution system, modifications, including—

"(i) replacement burners, furnaces, boilers, or any combination thereof, which (as determined by the Secretary) substantially increases the energy efficiency of the heating system,

"(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(G) replacement or modification of a lighting system which increases the energy efficiency of the lighting system without increasing the overall illumination of the building or dwelling (unless such increase in illumination is necessary to conform to any applicable State or local building code or the increase is considered appropriate by the Secretary);

"(H) energy recovery systems;

"(I) cogeneration systems which produce electricity, as well as steam or other forms of thermal or mechanical energy, and which meet such fuel efficiency requirements as the Secretary may, by rule, prescribe;

"(J) a solar energy system, as defined in section 504(8) of the Solar Energy and Energy Conservation Bank Act; and

"(K) such other measures as the Secretary identifies, by rule, for purposes of this title.

"(6) The term 'eligible customer' means—

"(A) with respect to a public utility, the owner or tenant of a commercial building or the owner of a multifamily dwelling to whom that public utility sells natural gas or electricity for use in such building or dwelling, or

"(B) with respect to a building heating supplier, the owner or tenant of a commercial building or the owner of a multifamily dwelling to whom that building heating supplier sells No. 2, No. 4, or No. 6 heating oil, kerosene, or propane for use in such building or dwelling.

"(7) The term 'energy audit' means an onsite inspection of a commercial building or a multifamily dwelling which determines and informs the eligible customer of at least—

"(A) the type, quantity, and rate of energy consumption of such building or dwelling;

"(B) energy efficient improvements appropriate to such building or dwelling; and

"(C) the need, if any, for the purchase and installation of commercial energy conservation measures in such building or dwelling.

The Secretary, after consulting with appropriate State officials, may establish criteria for such audits on a regional basis to account for regional variations in energy use.

"(8) The term 'utility program' means a program meeting the requirements of section 731.

"(9) The term 'building heating supplier program' means a program meeting the requirements of section 732.

42 USC §281a.

"SEC. 711. COVERAGE.

42 USC §212.

"This title shall apply to any public utility for which coverage is provided under section 211.

42 USC §281b.

"SEC. 712. RULES OF SECRETARY FOR SUBMISSION AND APPROVAL OF PLANS.

(Oral and written
comments.)

"(a) **PROMULGATION OF RULES BY THE SECRETARY.**—The Secretary shall, not later than 120 days after enactment of this title and after consultation with the Secretary of Housing and Urban Development and the heads of such other agencies as the Secretary deems appropriate, publish proposed rules on the content and implementation of State energy conservation plans for commercial buildings and multifamily dwellings which meet the requirements of this title. After publication of such proposed rules, the Secretary shall afford interested persons (including Federal and State agencies) an opportunity to present oral and written comments on such proposed rules. Rules prescribing the content and implementation of State energy conservation plans for commercial buildings and multifamily dwellings shall be published not earlier than forty-five days after publication of the proposed rules.

"(b) **ENERGY EFFICIENT IMPROVEMENTS OF DIFFERENT TYPES AND CATEGORIES.**—The rules promulgated under subsection (a) may identify energy efficient improvements in different types of commercial buildings and multifamily dwellings by climatic region and by categories determined by the Secretary on the basis of type of construction and any other factors which the Secretary deems appropriate. Such improvements shall be considered in the energy audit offered to eligible customers under sections 731, 732, and 741.

42 USC §327.

42 USC §211.

"(c) **COORDINATION.**—The rules promulgated under subsection (a) shall, to the extent practicable, coordinate the requirements of this title with the provisions of section 367(b)(1) of the Energy Policy and Conservation Act and with the utility program established under title II, part 1 of this Act. Such rules shall not have the effect of delaying the submission, approval, or implementation of residential energy conservation plans under title II, part 1 of this Act.

"(d) **OTHER RULES.**—The Secretary may prescribe any other rule necessary to carry out the provisions of this title.

"PART 2—ENERGY CONSERVATION PLANS

42 USC §282.

"SEC. 721. PROCEDURES FOR SUBMISSION AND APPROVAL OF STATE ENERGY CONSERVATION PLANS FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS.

"(a) **SUBMISSION AND APPROVAL OF STATE PLANS.**—Not later than 180 days after the promulgation of rules under section 712(a), the Governor of each State (or any State agency specifically authorized to do so under State law) may submit to the Secretary a proposed energy conservation plan for commercial buildings and multifamily dwellings which meets the requirements of the rules promulgated under section 712. Within such 180-day period, each nonregulated utility shall submit a proposed plan, which meets the requirements of the rules promulgated under section 712, to the Secretary unless a plan

submitted under the preceding sentence for the State in which the unregulated utility provides utility service applies to nonregulated utilities as provided in subsection (b). The Secretary may, upon request of the Governor or State agency or nonregulated utility, extend for good cause shown, the time period for submission of a plan. Each plan submitted in accordance with this subsection shall be reviewed and approved or disapproved in accordance with the procedures of subparagraphs (B) and (C) of section 212(c)(1).

42 USC 8213.

“(b) **NONREGULATED UTILITIES.**—Any plan submitted by a Governor or State agency under subsection (a) may, in the discretion of the Governor if he notifies the Secretary within 30 days after promulgation of rules under section 712(a), apply to nonregulated utilities providing utility service in the State in the same manner as to regulated utilities. In any such case, reference elsewhere in this title to regulated utilities (including references to utilities with respect to which a State regulatory authority exercises ratemaking authority) shall, with respect to such State, be treated as references also to unregulated utilities and references elsewhere in this title to nonregulated utilities shall not apply. For purposes of this subsection, the term ‘nonregulated utility’ shall not include any public utility which is a Federal agency.

“Nonregulated utility.”

“(c) **PLAN FOR BUILDING HEATING SUPPLIERS.**—A plan applicable to building heating suppliers may be submitted by the Governor in his discretion.

“(d) **TENNESSEE VALLEY AUTHORITY.**—In the case of the Tennessee Valley Authority or any public utility with respect to which the Tennessee Valley Authority has ratemaking authority, the authority otherwise vested in the Governor or State agency under this section shall be vested in the Tennessee Valley Authority.

SEC. 712. REQUIREMENTS FOR STATE PLANS FOR REGULATED UTILITIES.

42 USC 8232a.

“No proposed energy conservation plan for commercial buildings and multifamily dwellings submitted for regulated utilities shall be approved by the Secretary unless such plan—

“(1) requires each regulated utility to implement a program which meets the requirements of section 731 and such other requirements as may be contained in the rules promulgated by the Secretary under section 712, except that no such program may be required to apply to all of the multifamily dwellings and commercial buildings located within such utility’s service area if, within 6 months from the date on which the Secretary’s rules are promulgated with respect to such program, the State regulatory authority which exercises ratemaking authority over such utility determines that the inclusion of such additional buildings or dwellings would significantly impair such utility’s ability—

“(A) to fulfill the requirements of section 215, or

Ante, p. 742.

“(B) to provide utility service to its customers.

“(2) provides adequate State procedures for implementing the enforcement of the plan;

“(3) provides procedures for insuring that effective coordination exists among various local, State, and Federal energy conserving programs within and affecting such State; and

“(4) is adopted after notice and public hearing.

Hearing.

42 USC 8282b. "SEC. 723. PLAN REQUIREMENTS FOR NONREGULATED UTILITIES AND BUILDING HEATING SUPPLIERS.

"(a) **REQUIREMENTS FOR PLANS FOR NONREGULATED UTILITIES.**—No plan proposed by a nonregulated utility shall be approved by the Secretary unless such plan meets the same requirements as provided under section 722 for regulated utilities. In applying the requirements of section 722 in the case of a plan for a nonregulated utility under this section, any reference to a regulated utility shall be treated as a reference to a nonregulated utility and the reference to the State regulatory authority shall be treated as a reference to the Governor.

"(b) **REQUIREMENTS FOR PLANS FOR BUILDING HEATING SUPPLIERS.**—No plan proposed for building heating suppliers shall be approved by the Secretary unless such plan meets the same requirements as provided under paragraphs (3) and (4) of section 722 and—

"(1) meets the requirements of section 732 and contains adequate enforcement procedures with respect to such requirements;

"(2) meets such requirements applicable to building heating suppliers as may be contained in the rules promulgated under section 712; and

"(3) takes into account the resources of small building heating suppliers.

"PART 3—UTILITY PROGRAMS

42 USC 8283. "SEC. 731. UTILITY PROGRAMS.

"(a) **GENERAL REQUIREMENTS.**—Each utility program shall include procedures designed to provide that each public utility—

"(1) offers to each eligible customer, no later than 12 months after the approval of the applicable plan and every 24 months thereafter until 1990, an energy audit of the eligible customer's commercial building or multifamily dwelling;

"(2) conditions the availability of an energy audit in the case of a multifamily dwelling upon the agreement by the eligible customer to provide to the tenants of the customer's multifamily dwelling the information developed by such audit concerning energy efficient improvements and commercial energy conservation measures applicable to the individual dwelling units in such dwelling;

"(3) maintains a report of each audit performed pursuant to this subsection with respect to a commercial building or multifamily dwelling for not less than 10 years, which report shall be available to any subsequent eligible customer of such commercial building or multifamily dwelling; and

"(4) shall not be required to conduct an energy audit of a commercial building or multifamily dwelling which has been audited previously pursuant to this title or title III;

except that any public utility may contract with one or more persons, including another utility, to carry out directly some or all of the responsibilities required by this subsection.

"(b) **REQUIREMENTS CONCERNING ACCOUNTING AND PAYMENT OF COSTS.**—Each State regulatory authority or nonregulated utility shall, within 180 days after promulgation of rules under section 712(a), or such longer period as the Secretary for good cause may allow, provide—

Ante, p. 752, 42
USC 6371 note.

prescribed in such order which meets the requirements specified in section 731.

"(b) **NONREGULATED UTILITIES.**—If a nonregulated utility which is not covered by an approved State plan under section 721 does not have a plan approved under such section within 270 days after promulgation of rules under section 712(a) or within such additional period as the Secretary may allow pursuant to section 721(a), or if the Secretary determines that such nonregulated utility has not adequately implemented an approved plan, the Secretary shall, by order, require such nonregulated utility—

"(1) to promulgate a plan which meets the requirements of section 723 and which applies to the commercial buildings and multifamily dwellings which would have been covered had such a plan been so approved or implemented; and

"(2) no later than 90 days following the date of issuance of such order, to offer to its customers a utility program prescribed in such plan which meets the requirements specified in section 731.

"(c) **ENFORCEMENT.**—If the Secretary determines that any person has violated any provision of this title, any plan approved or promulgated under this title, or any order issued pursuant thereto, the Secretary may file a petition in the appropriate United States district court to enjoin such person from violating such provision, plan, or order. The provisions of subsections (c) and (d) of section 219 shall apply to any violation of any order or plan promulgated by the Secretary under authority of subsections (a) and (b) of this section."

42 USC 8220.

AMENDMENT TO THE TABLE OF CONTENTS

SEC. 566. The table of contents of the National Energy Conservation Policy Act is amended by adding the following new items at the end thereof:

"TITLE VII—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

"PART 1—GENERAL PROVISIONS

"Sec. 710. Definitions.

"Sec. 711. Coverage.

"Sec. 712. Rules of Secretary for submission and approval of plans.

"PART 2—ENERGY CONSERVATION PLANS

"Sec. 721. Procedures for submission and approval of State energy conservation plans for commercial buildings and multifamily dwellings.

"Sec. 722. Requirements for State plans for regulated utilities.

"Sec. 723. Plan requirements for nonregulated utilities and building heating suppliers.

"PART 3—UTILITY PROGRAMS

"Sec. 731. Utility programs.

"Sec. 732. Building heating supplier program.

"PART 4—FEDERAL IMPLEMENTATION

"Sec. 741. Federal standby authority."

SUBTITLE E—WEATHERIZATION PROGRAM

LIMITATIONS ON ADMINISTRATIVE EXPENDITURES

Sec. 571. Section 415(a) of the Energy Conservation in Existing Buildings Act of 1976 is amended by striking out “, except that” and all that follows through the period at the end thereof and inserting in lieu thereof the following: “. Not more than an amount equal to 10 percent of any grant made by the Secretary under this part may be used for administrative purposes in carrying out duties under this part, except that not more than one-half of such amount may be used by any State for such purposes.” 42 USC 6865.

EXPENDITURES FOR LABOR

Sec. 572. Section 415(c) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(1) by striking out “paragraph (2)” in paragraph (1) and inserting in lieu thereof “paragraphs (2) and (3)”; and

(2) by inserting the following new paragraph at the end thereof:

“(3) In areas where the Secretary, after consultation with the Secretary of Labor, determines that there is an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work on weatherization projects under the supervision of qualified supervisors and foremen, the Secretary may increase the limitation of \$800 to not more than \$1,600 to cover the costs of paying persons who will install the weatherization materials and, to the maximum extent practicable, who would otherwise be able to participate as training participants and public service employment workers pursuant to the Comprehensive Employment and Training Act of 1973.” 29 USC 801 note.

SELECTION OF LOCAL AGENCIES

Sec. 573. (a) Section 415(b)(2) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(1) by inserting “and” at the end of subparagraph (A);

(2) by striking out subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) Section 413(c) of such Act is amended by striking out the second sentence thereof. 42 USC 6863.

(c) Section 414(b) of the Energy Conservation in Existing Buildings Act of 1976 is amended— 42 USC 6864.

(1) by striking out “and” at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof “; and”; and

(3) by adding the following new paragraph at the end thereof:

“(4) selected on the basis of public comment received during a public hearing conducted pursuant to section 415(b)(1), and other appropriate findings, community action agencies or other public or nonprofit entities to undertake the weatherization activities authorized by this title: *Provided*, Such selection shall be based on the agency’s experience and performance in weatherization or housing renovation activities, experience in assisting low-income persons in the area to be served, and the capacity to undertake a timely and effective weatherization program: *Provided further*,

94 STAT. 760

PUBLIC LAW 96-294—JUNE 30, 1980

42 USC 6851,
2781.

That in making such selection preference shall be given to any community action agency or other public or nonprofit entity which has, or is currently administering, an effective program under this title or under title II of the Economic Opportunity Act of 1964.”.

STANDARDS AND PROCEDURES FOR THE WEATHERIZATION PROGRAM

42 USC 6863.

SEC. 574. Section 413(b) of the Energy Conservation in Existing Buildings Act of 1976 is amended by adding the following new paragraph at the end thereof:

“(4) In carrying out paragraphs (2)(A) and (3), the Secretary shall establish the standards and procedures described in such paragraphs so that weatherization efforts being carried out under this part and under programs described in the fourth sentence of paragraph (3) will accomplish uniform results among the States in any area with a similar climatic condition.”.

LIMITATIONS ON EXPENDITURES

Ante, p. 759.

SEC. 575. Section 415(c)(1)(D) of the Energy Conservation in Existing Buildings Act of 1976 is amended by striking out “\$100” and inserting in lieu thereof “\$150”.

AUTHORIZATION OF APPROPRIATIONS

42 USC 6872.

SEC. 576. Section 422 of the Energy Conservation in Existing Buildings Act of 1976 is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 422. There is authorized to be appropriated for purposes of carrying out the weatherization program under this part, the sum of \$55,000,000 for the fiscal year ending on September 30, 1977, the sum of \$130,000,000 for the fiscal year ending on September 30, 1978, the sum of \$200,000,000 for the fiscal year ending on September 30, 1979, the sum of \$200,000,000 for the fiscal year ending on September 30, 1980, and the sum of \$200,000,000 for the fiscal year ending on September 30, 1981, such sums to remain available until expended.”.

TECHNICAL AMENDMENTS

42 USC 6862.

SEC. 577. Part A of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(1) by striking out section 412(1) and inserting in lieu thereof the following:

“(1) The term ‘Secretary’ means the Secretary of Energy.”;

(2) by striking out “Administrator” each time it appears therein and inserting in lieu thereof “Secretary”; and

42 USC 6869.

(3) by striking out “Administrator’s” in the first sentence of section 419(a) and inserting in lieu thereof “Secretary’s”.

SUBTITLE F—ENERGY AUDITOR TRAINING AND CERTIFICATION

PURPOSE

42 USC 8285.

SEC. 581. It is the purpose of this subtitle to encourage the training and certification of individuals to conduct energy audits for residen-

and commercial buildings in order to serve the various private public needs of the Nation for energy audits.

DEFINITIONS

Sec. 582. For the purposes of this subtitle—

42 U.S.C. 6302a

- (1) the term "Governor" means the chief executive officer of each State, including the Mayor of the District of Columbia;
- (2) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands;
- (3) the term "energy audit" means an inspection as described in section 215(b)(1)(A) of the National Energy Conservation Policy Act, or an energy audit as defined in section 215(b)(1)(A) of each Act, which in addition may include an inspection of the utilization of renewable resources, improvements in the building, and
- (4) the term "Secretary" means the Secretary of Energy.

GRANTS

Sec. 583. (a) The Secretary may make grants for the training and certification of energy auditors.

in the Department of Energy

(b) Before making a grant under this section, the Secretary must receive from the applicant—

in a Department of Energy

(A) any information which the Secretary may require to carry out this subtitle; and

in the Department of Energy

(B) an assurance that the grant will be used to increase the number of energy auditors and will be used to increase the number of energy auditors.

in the Department of Energy

(c) Before making any grant under this section, the Secretary must establish minimum standards for applicants to conduct energy audits.

in the Department of Energy

(d) The Secretary shall require each applicant for this subtitle to agree to meet the requirements of paragraph (c) of any grant made under this subtitle.

in the Department of Energy

ADMINISTRATIVE PROVISIONS

Sec. 584. (a) To carry out this subtitle, the Secretary may use not more than \$10,000,000 in fiscal year 1981, and the sum of \$15,000,000 in fiscal year 1982.

in the Department of Energy

(b) Any funds appropriated under this subtitle shall remain available until expended.

in the Department of Energy

ENERGY AUDITORS

ADMINISTRATIVE PROVISIONS

Sec. 585. (a) The Secretary may make grants for the training and certification of energy auditors.

in the Department of Energy

in industry, there is authorized to be appropriated to the Secretary of Energy for industrial energy conservation demonstration projects designed to substantially increase productivity in industry, in addition to any other sums which may be available for such purposes, the sum of \$40,000,000 for each of the fiscal years ending on September 30, 1981, and on September 30, 1982.

**SUBTITLE H—COORDINATION OF FEDERAL ENERGY CONSERVATION
FACTORS AND DATA**

**CONSENSUS ON FACTORS AND DATA FOR ENERGY CONSERVATION
STANDARDS**

42 USC 8286.

SEC. 595. The Secretary of Energy shall assure that within 6 months after the date of the enactment of this Act, the Secretary of Energy, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of Health and Human Services, the Secretary of Defense, the Administrator of the General Services Administration, and the head of any other agency responsible for developing energy conservation standards for new or existing residential, commercial, or agricultural buildings shall reach a consensus regarding factors and data used to develop such standards. This consensus shall apply to, but not be limited to—

- (1) fuel price projections;
- (2) discount rates;
- (3) inflation rates;
- (4) climatic conditions and zones; and
- (5) the cost and energy saving characteristics of construction materials.

USE OF FACTORS AND DATA

42 USC 8286a.

SEC. 596. Factors and data consented to pursuant to section 595 may be revised and agreed to by a consensus of the heads of the various Federal agencies involved. Such factors and data shall be used by all Federal agencies in establishing and revising various energy conservation standards used by such agencies, except that other factors and data may be used with respect to the standards applicable to any program if—

- (1) the other factors and data are approved by the Secretary of Energy solely on the basis that such other factors and data are critical to meet the unique needs of the program concerned;
- (2) using the consented to factors and data would cause a violation of an express provision of law; or
- (3) statutory requirements or responsibilities require a modification of the consented to factors and data.

REPORT

Submittal to
Congress.
42 USC 8286b.

SEC. 597. The President shall report to the Congress on January 1, 1981, and annually thereafter, with respect to—

- (1) the activities which have been carried out under this subtitle; and
- (2) other efforts which are being carried out to coordinate the various Federal energy conservation programs.

PUBLIC LAW 96-294—JUNE 30, 1980

94 STAT. 763

TITLE VI—GEOTHERMAL ENERGY

Geothermal
Energy Act of
1980.

SHORT TITLE

Sec. 601. This title may be cited as the “Geothermal Energy Act of 1980”.

30 USC 1501
note.

FINDINGS

Sec. 602. The Congress finds that—

30 USC 1501.

- (1) domestic geothermal reserves can be developed into regionally significant energy sources promoting the economic health and national security of the Nation;
- (2) there are institutional and economic barriers to the commercialization of geothermal technology; and
- (3) Federal agencies should consider the use of geothermal energy in the Government's buildings.

SUBTITLE A

LOANS FOR GEOTHERMAL RESERVOIR CONFIRMATION

Sec. 611. (a) The Secretary of Energy (hereafter in this title referred to as the “Secretary”) is authorized to make a loan to any person, from funds appropriated (pursuant to this subtitle) to the Geothermal Resources Development Fund established under section 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1144), to assist such person in undertaking and carrying out a project which (1) is designed to explore for or determine the economic viability of a geothermal reservoir and (2) consists of surface exploration and the drilling of one or more exploratory wells.

30 USC 1511.

(b) Subject to subsection (c) and to section 613(b), any loan under subsection (a) shall be repayable out of revenue from production of the geothermal energy reservoir with respect to which the loan was made, at a rate, in any year, not to exceed 20 per centum of the gross revenue from the reservoir in that year; except that if any disposition of the geothermal rights to the reservoir is made to one or more other persons by the borrower, the full amount of the loan balance outstanding, or so much of the loan balance outstanding as is equal to the full amount of the compensation realized by the borrower upon such disposition, whichever is less, shall be repaid immediately. In any case where the reservoir is confirmed (as determined by the Secretary), the Secretary may impute a reasonable revenue for purposes of determining repayment if—

Repayment.

(1) reasonable efforts are not made to put such reservoir in commercial operation,

(2) the borrower (or any such other person) utilizes the resources of the reservoir without a sale of the energy or geothermal energy resources therefrom, or

(3) a sale of energy or geothermal energy resources from the reservoir is made for an unreasonably low price;

except that no such imputation of revenue shall be made during the three-year period immediately following such reservoir confirmation. In the event of failure to begin production of revenue (or, where no sale of energy or geothermal energy resources is made, to begin production of energy for commercial use) within five years after the date of such reservoir confirmation, the Secretary may take action to

Production
failure.

- recover the value, not to exceed the amount of the unpaid balance of the loan plus any accrued interest thereon, of any assets of the project in question, including resource rights.
- Cancellation.** (c) The Secretary may at any time cancel the unpaid balance and any accrued interest on any loan made under this section if he determines, on the basis of evidence presented by the loan recipient or otherwise, that the geothermal energy reservoir with respect to which the loan was made has characteristics which make that reservoir economically or technically unacceptable for commercial development.
- "Person."** (d) As used in this subtitle, the term "person" includes municipalities, electric cooperatives, industrial development agencies, non-profit organizations, and Indian tribes, as well as the entities included within such term under 1 U.S.C. 1.

LOAN SIZE LIMITATION

- 30 USC 1512. **SEC. 612.** The amount of any loan made under section 611(a) with respect to a project described in that section shall not exceed 50 percent of the cost of such project; except that if the loan is made to a person proposing to make application of the resources of the reservoir involved primarily for space heating or cooling or process heat for one or more structures or facilities then existing or under construction, the loan may be in any amount up to 90 per centum of such cost. In any event no loan shall be made in an amount in excess of \$3,000,000.

LOAN RATE AND REPAYMENT

- 30 USC 1513. **SEC. 613.** (a) Each loan made under section 611 shall bear interest at a discount or interest rate equal to the rate in effect (at the time the loan is made) for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)).
- 42 USC 1962d-17. (b) Each such loan shall be for a term which the Secretary deems appropriate, except that no term shall exceed twenty years beyond the date on which production of energy or geothermal energy resources begins from the reservoir involved. If revenues are inadequate (as determined by the Secretary) to fully repay the principal and accrued interest within twenty years after production begins, any remaining unpaid amounts shall be forgiven.

PROGRAM TERMINATION

- 30 USC 1514. **SEC. 614.** No new loans shall be made under this subtitle after September 30, 1986. Amounts repaid on or before September 30, 1986, on loans theretofore made under section 611 shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle. Amounts repaid after that date on loans theretofore made under section 611, and amounts deposited in the Fund for purposes of this subtitle which remain in the Fund after that date and are not required to secure outstanding obligations under this subtitle, shall be deposited into the United States Treasury as miscellaneous receipts.

REGULATIONS

- 30 USC 1515. **SEC. 615.** The Secretary shall promulgate regulations to carry out this subtitle no later than six months after the date of the enactment of this Act.

AUTHORIZATIONS

Sec. 616. There are hereby authorized to be appropriated for loans under this subtitle not to exceed \$5,000,000 for fiscal year 1981, and not to exceed \$20,000,000 for each of the four succeeding fiscal years. Amounts so appropriated shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle, and shall remain available for such purposes until expended. 30 USC 1516.

SUBTITLE B

RESERVOIR INSURANCE PROGRAM STUDY

Sec. 621. The Secretary shall conduct a detailed study of the need for and feasibility of establishing a reservoir insurance and reinsurance program incorporating the terms, conditions, and provisions set forth in section 622, and shall submit to the Congress within one year after the date of the enactment of this Act a report on the results of such study including his findings and recommendations with respect thereto. Report to Congress. 30 USC 1521.

ESTABLISHMENT OF PROGRAM

Sec. 622. (a) If the report of the Secretary submitted pursuant to section 621 affirmatively recommends the establishment of the program and the Congress by law (after review of such recommendation) specifically authorizes the establishment of the program, the Secretary shall establish and implement within six months after the date of the enactment of such authorization a program, in cooperation with the insurance and reinsurance industry, to provide reservoir insurance to qualified eligible applicants in accordance with this section. 30 USC 1522.

(b) For the purpose of this section—

Definitions.

(1) the term "investment" means the expenditure of, and any irrevocable legal obligation to expend, funds (together with the reasonable interest costs thereof) for the purchase or construction of machinery, equipment, and facilities manufactured, or for services contracted to be furnished, for the development and utilization of a geothermal resource in the United States to provide energy in the form of heat for direct use or for generation of electricity;

(2) the term "geothermal resource" means a resource in the United States including (A) all products of geothermal processes embracing indigenous steam, hot water, and hot brines; (B) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (C) heat or other associated energy found in geothermal formations; and (D) any byproducts derived from them, where "byproduct" means any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with other geothermal resources and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(3) the term "risk" means the hazard that a reservoir of geothermal resources will cease to provide sufficient quantities of geothermal resources at minimum conditions required to

maintain an economically or technically viable operation for utilization of the geothermal resource;

(4) the term "reasonable premiums" means premium amounts determined by the Secretary to be reasonable in light of the amount of investment subject to the risk and premiums charged in similar or analogous situations by private insurers where private insurance is concerned and by insurers or guarantors, both public and private, where public insurance is concerned;

(5) the term "other insurance" means any combination of private or public insurance other than investment insurance provided by the Secretary under this section;

(6) the term "reservoir" means the physical subsurface geologic structure which forms the natural repository for the undisturbed geothermal resource; and

(7) the term "person" means any public or private agency, institution, association, partnership, corporation, political subdivision, or other legal entity which is a United States citizen as determined by application of the test for United States citizenship contained in section 2(a)-(c) of the Shipping Act, 1916 (46 U.S.C. 802), or in the first sentence of section 27A of the Merchant Marine Act, 1920 (46 U.S.C. 883-1(a)-(e)).

Investment
insurance.

(c) Any person with a total direct investment of not less than \$1,000,000 in the development and use, not including exploration and testing, of a geothermal resource associated with a reservoir, and unable to obtain other insurance at reasonable premiums for the amount of the investment subject to risk, as determined by the Secretary under this section, shall be eligible for investment insurance.

(d) Any eligible person seeking investment insurance under this section shall file an application with the Secretary setting forth (1) the total amount of the contemplated investment in a geothermal resource and associated reservoir; (2) the views of the applicant concerning the nature and extent of the risk, including a geologic, engineering, and financial assessment based on site specific results of exploration and testing of the geothermal resource and the reservoir, stated with as much specificity as is possible; (3) the status of all required Federal, State, and local approvals, permits, and leases for the proposed development and utilization operations at the site; (4) the extent to which the applicant has been able to obtain other insurance against the risk; and (5) such other information as the Secretary may require.

(e) Unless the Secretary determines the risk proposed by the applicant is unreasonable, the Secretary, within ninety days after receipt of a satisfactory application, shall determine in writing and submit to the applicant (1) the risk which may cause loss of investment for the applicant; (2) the total investment subject to the risk; (3) the amount of the other insurance which is available at reasonable premiums for the purpose of indemnifying the applicant against the risk; (4) the amount of investment insurance available pursuant to this section, which shall be the difference between the total investment subject to the risk and the total other insurance determined to be available at reasonable premiums, but not in excess of the lesser of 90 per centum of, or \$50,000,000 of, the loss of investment subject to the risk; and (5) any reasonable terms and conditions necessary for the prudent administration of the program, including reasonable premiums for the insurance pursuant to this section (which shall be deposited in the Geothermal Resources Development Fund).

(f) The Secretary, within ninety days after making and submitting the determinations under subsection (e), and upon agreement of the applicant to such determinations, shall issue a certificate of insurance containing such terms and conditions as the Secretary shall specify, which shall not be transferrable without the express approval of the Secretary for good cause shown, and shall execute a contract with the applicant setting forth the terms and conditions of the investment insurance and such other provisions as may be necessary to protect the interests of the United States, including provisions with respect to the ownership, use, and disposition of any currency, credits, assets, or investments on account of which payment under such insurance is to be made and any right, title, claim, or course of action existing in relation thereto.

(g) Any holder of a certificate of insurance pursuant to subsection (f) who claims a loss of value of his investment by reason of the specified risk shall receive compensation, to the extent the Secretary determines that the holder is eligible to receive compensation pursuant to the certificate and the contract, in the amount of the loss incurred by the holder which is subject to insurance and for which the holder has not received and will not receive compensation from other insurance.

Compensation.

(h) Any compensation received by the holder shall be withdrawn from the Geothermal Resources Development Fund. The full faith and credit of the United States is hereby pledged to the payment of any compensation under this section.

(i) A person shall not be denied insurance pursuant to this section solely because such person is the recipient of other Federal assistance under this or any other Act.

(j) There may be appropriated to the Geothermal Resources Development Fund (established pursuant to section 204 of the Geothermal Energy Research, Development and Demonstration Act of 1974 (30 U.S.C. 1144)), for purposes of this section, such amounts as are authorized for such purposes in the law referred to in subsection (a) or in other legislation hereafter enacted.

(k) The Secretary may enter into agreements to reinsure any private insurer for any risk associated with insurance for the development and utilization of a geothermal resource and associated reservoir, using the procedures set forth in subsections (c) through (i), to the extent that he deems it appropriate in order to provide an incentive for the participation of the private insurance industry in geothermal development; and he may also use any other available authority to obtain such participation. The Secretary shall submit a report to the Congress, within one year after the enactment of the law referred to in subsection (a), on the need for any additional authority to obtain such participation.

Agreements.

Report to Congress.

SUBTITLE C

FEASIBILITY STUDY LOAN PROGRAM

Sec. 631. (a) The Secretary is authorized and directed to establish a program of assistance for the accelerated development of geothermal resources for nonelectric applications by geothermal utility districts, geothermal industrial development districts, and other persons.

30 USC 1531.

(b)(1) In providing assistance under the program established pursuant to subsection (a), the Secretary is authorized to make a loan to any person to defray up to 90 per centum of the costs of (A) studies to

determine the feasibility of any geothermal development described in such subsection, and (B) preparing applications for any necessary licenses or other Federal, State, and local approvals respecting such development.

Cancellation.

(2) The Secretary may cancel the unpaid balance and any accrued interest on any loan granted for a study pursuant to clause (A) of paragraph (1) if he determines, on the basis of the study, that the geothermal development is not technically or economically feasible.

(c) In providing assistance under such program, the Secretary is also authorized to make a loan to any person to defray up to 75 per centum of the costs directly related to the construction of a system or systems for nonelectric geothermal development pursuant to such subsection, where the Secretary finds that—

(1) all necessary licenses and other required Federal, State, and local approvals for construction of such system or systems have been or will be issued,

(2) the project involved will comply with all applicable laws relating to protection of the environment, and

(3) the applicant requires such assistance to undertake and complete the project.

(d) Each loan made pursuant to this section shall bear interest at a discount or interest rate equal to the rate in effect (at the time the loan is made) for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)). Each loan shall be for such term as the Secretary deems appropriate, but not in excess of ten years for loans under subsection (b) or thirty years for loans under subsection (c).

42 USC
1962d-17.

(e) Loans pursuant to this section shall be made from funds appropriated (pursuant to this subtitle) to the Geothermal Resources Development Fund established under section 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1144); and amounts repaid on such loans shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle.

(f) For loans under clause (A) of subsection (b)(1) for fiscal year 1981, there is authorized to be appropriated to the Geothermal Resources Development Fund not to exceed \$5,000,000, which shall remain available until expended. For loans under such clause (A) for subsequent fiscal years, and for loans under clause (B) of subsection (b)(1) or under subsection (c) (for any such subsequent fiscal year), there may be appropriated to such Fund only such sums as are authorized by legislation hereafter enacted.

"Person."

(g) As used in this section, the term "person" includes municipalities, cooperatives, industrial development agencies, nonprofit organizations, and Indian tribes, as well as the districts referred to in subsection (a) and the other entities included within such term under 1 U.S.C. 1.

SUBTITLE D

AMENDMENTS TO GEOTHERMAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

SEC. 641. Title II of the Geothermal Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101 et seq.) is amended—

30 USC 1141.

(1) by striking out the period at the end of the first sentence in section 201(c) and inserting in lieu thereof the following: "except that any guarantee made for a loan to an electric, housing, or

other cooperative, or to a municipality (as defined in section 3(7), part I, of the Federal Power Act), may apply to so much of the principal amount of the loan as does not exceed 90 percent of the aggregate cost of the project. In determining the aggregate cost of a project for purposes of the preceding sentence, there shall be excluded the cost of constructing electrical transmission lines to the extent that the cost of constructing such lines exceeds 25 percent of the aggregate cost of the project (as determined without regard to this sentence); except that the Secretary may waive or limit the application of this sentence with respect to any project located in the State of Hawaii upon a finding that such project is remote from the area of primary consumption, that a transmission line is required before the geothermal reservoir can be developed, and that the particular transmission line involved will be used for more than the plant which is the subject of the loan guarantee.”; 16 USC 796.

(2) by striking out “the ten-calendar-year period following the date of enactment of this Act” in section 203 and inserting in lieu thereof “fiscal year 1990”; and 30 USC 1143.

(3) by adding at the end thereof the following new sections:

“APPROVAL OR DISAPPROVAL OF LOAN GUARANTEE APPLICATIONS

“Sec. 206. The Secretary, within sixty days after the enactment of this section, shall establish and implement procedures providing for a final decision on any loan guarantee application within four months of the date of filing. To the maximum extent practical, an applicant should be advised (prior to the submission of the application) of all information which will be required of the applicant in processing the application; and the date of filing shall be considered to be the date when all of such information has been submitted by the applicant. Any application proposed and filed as of the date of the enactment of this section shall be subject to final decision within not more than four months after such date. 30 USC 1146.

“APPLICATION OF NATIONAL ENVIRONMENTAL POLICY ACT

“Sec. 207. The Secretary shall ensure, to the maximum extent possible, that any action undertaken pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 which is associated with the granting of a loan guarantee under this title takes the maximum cognizance allowable under law of any other action theretofore undertaken pursuant to such section 102(2)(C) with respect to the project which is the subject of such loan guarantee, and that no such action associated with the loan guarantee shall duplicate any action theretofore undertaken under such section 102(2)(C) in connection with such project, so long as all of the requirements which are applicable to such project under such section 102(2)(C) will have been satisfied.”. 30 USC 1147. 42 USC 4332.

USE OF GEOTHERMAL ENERGY IN FEDERAL FACILITIES

Sec. 642. The option of using geothermal energy or geothermal energy resources shall be considered fully in any new Federal building, facility, or installation which is located in a geothermal resource area as designated by the Secretary. 30 USC 1541.

**AMENDMENTS TO FEDERAL POWER ACT AND PUBLIC UTILITY
REGULATORY POLICIES ACT**

SEC. 643. (a) The Federal Power Act is amended—

- 16 USC 796. (1) by inserting "geothermal resources," after "renewable resources," in section 8(17)(A)(i);
- 16 USC 824i. (2) by inserting "geothermal power producer (including a producer which is not an electric utility)," after "Federal power marketing agency," in section 210(a)(1); and
- 16 USC 824j. (3) by striking out "Any electric utility" at the beginning of section 211(a) and inserting in lieu thereof "Any electric utility, geothermal power producer (including a producer which is not an electric utility),".

16 USC 824a-3. **(b) Section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) is amended—**

- (1) by inserting ", and to encourage geothermal small power production facilities of not more than 80 megawatts capacity," after "to encourage cogeneration and small power production" in the first sentence of subsection (a);
- (2) by striking out "qualifying cogeneration facilities" in subsection (e)(1) and inserting in lieu thereof "geothermal small power production facilities of not more than 80 megawatts capacity, qualifying cogeneration facilities,"; and
- (3) by inserting ", or 80 megawatts for a qualifying small power production facility using geothermal energy as the primary energy source," after "30 megawatts" in subsection (e)(2).

REGULATIONS

- 30 USC 1542. **SEC. 644. All regulations made with respect to this subtitle shall be promulgated no later than six months after the date of the enactment of this Act.**

Acid
Precipitation
Act of 1980.

**TITLE VII—ACID PRECIPITATION PROGRAM AND CARBON
DIOXIDE STUDY**

SUBTITLE A—ACID PRECIPITATION

SHORT TITLE

- 42 USC 8901
note. **SEC. 701. This title may be cited as the "Acid Precipitation Act of 1980".**

STATEMENT OF FINDINGS AND PURPOSE

- 42 USC 8901. **SEC. 702. (a) The Congress finds and declares that acid precipitation resulting from other than natural sources—**

- (1) could contribute to the increasing pollution of natural and man-made water systems;
- (2) could adversely affect agricultural and forest crops;
- (3) could adversely affect fish and wildlife and natural ecosystems generally;
- (4) could contribute to corrosion of metals, wood, paint, and masonry used in construction and ornamentation of buildings and public monuments;
- (5) could adversely affect public health and welfare; and
- (6) could affect areas distant from sources and thus involve issues of national and international policy.

- (b) The Congress declares that it is the purpose of this subtitle—**

(1) to identify the causes and sources of acid precipitation;
 (2) to evaluate the environmental, social, and economic effects of acid precipitation; and

(3) based on the results of the research program established by this subtitle and to the extent consistent with existing law, to take action to the extent necessary and practicable (A) to limit or eliminate the identified emissions which are sources of acid precipitation, and (B) to remedy or otherwise ameliorate the harmful effects which may result from acid precipitation.

(c) For purposes of this subtitle the term "acid precipitation" means the wet or dry deposition from the atmosphere of acid chemical compounds.

"Acid precipitation."

INTERAGENCY TASK FORCE; COMPREHENSIVE PROGRAM

SEC. 703. (a) There is hereby established a comprehensive ten-year program to carry out the provisions of this subtitle; and to implement this program there shall be formed an Acid Precipitation Task Force (hereafter in this subtitle referred to as the "Task Force"), of which the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Administrator of the National Oceanic and Atmospheric Administration shall be joint chairmen. The remaining membership of the Task Force shall consist of—

Acid
Precipitation
Task Force.
42 USC 8902.

(1) one representative each from the Department of the Interior, the Department of Health and Human Services, the Department of Commerce, the Department of Energy, the Department of State, the National Aeronautics and Space Administration, the Council on Environmental Quality, the National Science Foundation, and the Tennessee Valley Authority;

(2) the director of the Argonne National Laboratory, the director of the Brookhaven National Laboratory, the director of the Oak Ridge National Laboratory, and the director of the Pacific Northwest National Laboratory; and

(3) four additional members to be appointed by the President.

(b) The four National Laboratories (referred to in subsection (a)(2)) shall constitute a research management consortium having the responsibilities described in section 704(b)(13) as well as the general responsibilities required by their representation on the Task Force. In carrying out these responsibilities the consortium shall report to, and act pursuant to direction from, the joint chairmen of the Task Force.

Research
management
consortium.

(c) The Administrator of the National Oceanic and Atmospheric Administration shall serve as the director of the research program established by this subtitle.

Director.

COMPREHENSIVE RESEARCH PLAN

SEC. 704. (a) The Task Force shall prepare a comprehensive research plan for the ten-year program (hereafter in this subtitle referred to as the "comprehensive plan"), setting forth a coordinated program (1) to identify the causes and effects of acid precipitation and (2) to identify actions to limit or ameliorate the harmful effects of acid precipitation.

42 USC 8903.

(b) The comprehensive plan shall include programs for—

(1) identifying the sources of atmospheric emissions contributing to acid precipitation;

(2) establishing and operating a nationwide long-term monitoring network to detect and measure levels of acid precipitation;

(3) research in atmospheric physics and chemistry to facilitate understanding of the processes by which atmospheric emissions are transformed into acid precipitation;

(4) development and application of atmospheric transport models to enable prediction of long-range transport of substances causing acid precipitation;

(5) defining geographic areas of impact through deposition monitoring, identification of sensitive areas, and identification of areas at risk;

(6) broadening of impact data bases through collection of existing data on water and soil chemistry and through temporal trend analysis;

(7) development of dose-response functions with respect to soils, soil organisms, aquatic and amphibious organisms, crop plants, and forest plants;

(8) establishing and carrying out system studies with respect to plant physiology, aquatic ecosystems, soil chemistry systems, soil microbial systems, and forest ecosystems;

(9) economic assessments of (A) the environmental impacts caused by acid precipitation on crops, forests, fisheries, and recreational and aesthetic resources and structures, and (B) alternative technologies to remedy or otherwise ameliorate the harmful effects which may result from acid precipitation;

(10) documenting all current Federal activities related to research on acid precipitation and ensuring that such activities are coordinated in ways that prevent needless duplication and waste of financial and technical resources;

(11) effecting cooperation in acid precipitation research and development programs, ongoing and planned, with the affected and contributing States and with other sovereign nations having a commonality of interest;

(12) subject to subsection (f)(1), management by the Task Force of financial resources committed to Federal acid precipitation research and development;

(13) subject to subsection (f)(2), management of the technical aspects of Federal acid precipitation research and development programs, including but not limited to (A) the planning and management of research and development programs and projects, (B) the selection of contractors and grantees to carry out such programs and projects, and (C) the establishment of peer review procedures to assure the quality of research and development programs and their products; and

(14) analyzing the information available regarding acid precipitation in order to formulate and present periodic recommendations to the Congress and the appropriate agencies about actions to be taken by these bodies to alleviate acid precipitation and its effects.

Submittal to
Congress; public
review.

(c) The comprehensive plan—

(1) shall be submitted in draft form to the Congress, and for public review, within six months after the date of the enactment of this Act;

(2) shall be available for public comment for a period of sixty days after its submission in draft form under paragraph (1);

(3) shall be submitted in final form, incorporating such needed revisions as arise from comments received during the review

period, to the President and the Congress within forty-five days after the close of the period allowed for comments on the draft comprehensive plan under paragraph (2); and

(4) shall constitute the basis on which requests for authorizations and appropriations are to be made for the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in final form under paragraph (3).

(d) The Task Force shall convene as necessary, but no less than twice during each fiscal year of the ten-year period covered by the comprehensive plan.

(e) The Task Force shall submit to the President and the Congress by January 15 of each year an annual report which shall detail the progress of the research program under this subtitle and which shall contain such recommendations as are developed under subsection (b)(14).

Annual report to President and Congress.

(f)(1) Subsection (b)(12) shall not be construed as modifying, or as authorizing the Task Force or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) which specifies (A) the department or agency to which funds are appropriated, or (B) the obligations of such department or agency with respect to the use of such funds.

(2) Subsection (b)(13) shall not be construed as modifying, or as authorizing the Task Force or the comprehensive plan to modify, any provision of law (relating to or involving a department or agency) which specifies (A) procurement practices for the selection, award, or management of contracts or grants by such department or agency, or (B) program activities, limitations, obligations, or responsibilities of such department or agency.

IMPLEMENTATION OF COMPREHENSIVE PLAN

Sec. 705. (a) The comprehensive plan shall be carried out during the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in its final form under section 704(c)(3); and—

42 USC 8904.

(1) shall be carried out in accord with, and meet the program objectives specified in, paragraphs (1) through (11) of section 704(b);

(2) shall be managed in accord with paragraphs (12) through (14) of such section; and

(3) shall be funded by annual appropriations, subject to annual authorizations which shall be made for each fiscal year of the program (as provided in section 706) after the submission of the Task Force progress report which under section 704(e) is required to be submitted by January 15 of the calendar year in which such fiscal year begins.

(b) Nothing in this subtitle shall be deemed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

AUTHORIZATION OF APPROPRIATIONS

Sec. 706. (a) For the purpose of establishing the Task Force and developing the comprehensive plan under section 704 there is authorized to be appropriated to the National Oceanic and Atmospheric

42 USC 8905.

Administration for fiscal year 1981 the sum of \$5,000,000, to remain available until expended.

(b) Authorizations of appropriations for the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in final form under section 704(c)(3), for purposes of carrying out the comprehensive ten-year program established by section 703(a) and implementing the comprehensive plan under sections 704 and 705, shall be provided on an annual basis in authorization Acts hereafter enacted; but the total sum of dollars authorized for such purposes for such nine fiscal years shall not exceed \$45,000,000 except as may be specifically provided by reference to this paragraph in the authorization Acts involved.

SUBTITLE B—CARBON DIOXIDE

STUDY

42 USC 8911.

Sec. 711. (a)(1) The Director of the Office of Science and Technology Policy shall enter into an agreement with the National Academy of Sciences to carry out a comprehensive study of the projected impact, on the level of carbon dioxide in the atmosphere, of fossil fuel combustion, coal-conversion and related synthetic fuels activities authorized in this Act, and other sources. Such study should also include an assessment of the economic, physical, climatic, and social effects of such impacts. In conducting such study the Office and the Academy are encouraged to work with domestic and foreign governmental and non-governmental entities, and international entities, so as to develop an international, worldwide assessment of the problems involved and to suggest such original research on any aspect of such problems as the Academy deems necessary.

Report to Congress.

(2) The President shall report to the Congress within six months after the date of the enactment of this Act regarding the status of the Office's negotiations to implement the study required under this section.

Results, report to Congress.

(b) A report including the major findings and recommendations resulting from the study required under this section shall be submitted to the Congress by the Office and the Academy not later than three years after the date of the enactment of this Act. The Academy contribution to such report shall not be subject to any prior clearance or review, nor shall any prior clearance or conditions be imposed on the Academy as part of the agreement made by the Office with the Academy under this section. Such report shall in any event include recommendations regarding—

Recommendations.

(1) how a long-term program of domestic and international research, monitoring, modeling, and assessment of the causes and effects of varying levels of atmospheric carbon dioxide should be structured, including comments by the Office on the interagency requirements of such a program and comments by the Secretary of State on the international agreements required to carry out such a program;

(2) how the United States can best play a role in the development of such a long-term program on an international basis;

(3) what domestic resources should be made available to such a program;

(4) how the ongoing United States Government carbon dioxide assessment program should be modified so as to be of increased

utility in providing information and recommendations of the highest possible value to government policy makers; and

(5) the need for periodic reports to the Congress in conjunction with any long-term program the Office and the Academy may recommend under this section.

(c) The Secretary of Energy, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Director of the National Science Foundation shall furnish to the Office or the Academy upon request any information which the Office or the Academy determines to be necessary for purposes of conducting the study required by this section.

(d) The Office shall provide a separate assessment of the interagency requirements to implement a comprehensive program of the type described in the third sentence of subsection (b).

AUTHORIZATION OF APPROPRIATIONS

SEC. 712. For the expenses of carrying out the carbon dioxide study authorized by section 711 (as determined by the Office of Science and Technology Policy) there are authorized to be appropriated such sums, not exceeding \$3,000,000 in the aggregate, as may be necessary. At least 80 percent of any amounts appropriated pursuant to the preceding sentence shall be provided to the National Academy of Sciences. 42 USC 8912.

TITLE VIII—STRATEGIC PETROLEUM RESERVE

PRESIDENT REQUIRED TO RESUME FILL OPERATIONS

SEC. 801. (a) Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding at the end thereof the following new subsection:

“(c)(1) Notwithstanding subsection (b) and the requirements of section 159, the President shall immediately undertake, and thereafter continue (subject to paragraph (2)), crude oil acquisition, transportation, and injection activities at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 100,000 barrels per day for fiscal year 1981 and for each fiscal year thereafter.

“(2) The requirement in paragraph (1) shall cease to apply when storage in the Strategic Petroleum Reserve equals or exceeds the final storage level set forth in the Strategic Petroleum Reserve Plan.”

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to the entirety of fiscal year 1981 (and each fiscal year thereafter). 42 USC 6240 note.

USE OF CRUDE OIL FROM ELK HILLS RESERVE

SEC. 802. (a) Section 160 of such Act (42 U.S.C. 6240), as amended by section 801, is further amended by adding at the end thereof the following:

“(d)(1) Notwithstanding any other provision of law, no portion of the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of other than to the Strategic Petroleum Reserve (either directly or by exchange) during any fiscal year, except as provided in paragraph (2), unless—

“(A) the quantity of crude oil in storage within the Strategic Petroleum Reserve is at least 500,000,000 barrels; or

“(B) acquisition, transportation, and injection activities for the Reserve are being undertaken for that fiscal year at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 100,000 barrels per day for that fiscal year.

“(2)(A) The requirements of paragraph (1) shall not apply to the United States share of crude oil in the Naval Petroleum Reserve Numbered 1 which is—

“(i) sold to small refiners under section 7430(d) of title 10, United States Code;

“(ii) produced, consistent with sound engineering practices, for the purpose of preventing a reduction in the total quantity of crude oil available for ultimate recovery from the Naval Petroleum Reserve Numbered 1, and the amount produced is the minimum necessary to prevent such reduction; or

“(iii) produced for national defense purposes under section 7422(b)(2) of title 10, United States Code, pursuant to an authorization of Congress under that section during the preceding 9-month period.”.

(b) The amendments made by subsection (a) shall take effect October 1, 1980.

Effective date.
42 USC 6240
note.

SUSPENSION DURING EMERGENCY SITUATIONS

SEC. 803. Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240), as amended by sections 801 and 802, is further amended by adding at the end thereof the following new subsection:

“(e)(1) The provisions of subsections (c) and (d) shall not apply (A) if there is in effect an order of the President directing drawdown and distribution pursuant to section 161 or (B) if—

“(i) the President has found in his discretion that compliance with such provisions significantly impairs the ability of the United States to respond to a severe energy supply interruption or to meet the obligations of the United States under the international energy program;

“(ii) the President has transmitted such finding to the Congress in accordance with section 552, together with a request for a suspension of such provisions; and

“(iii) such request has been approved by a resolution by each House of the Congress within 60 days of continuous session after the date of its transmittal, in accordance with the provisions of section 552 applicable to energy conservation contingency plans.

“(2) The suspension of application of subsections (c) and (d) under paragraph (1)(B) shall take effect on the date on which a resolution approving that request is adopted by the second House to have so approved that request and shall terminate 9 months thereafter, or such earlier date as is specified in the request transmitted under paragraph (1)(B)(ii).

“(3) In applying the provisions of section 552 for purposes of paragraph (1)(B)—

“(A) subsections (d)(2) and (d)(7) shall not apply; and

“(B) the references to any energy conservation contingency plan shall be considered to refer to a request under this subsection.

42 USC 6422.

"(4) The period of any suspension of subsections (c) and (d) under this subsection, and the quantity of any crude oil involved, shall be disregarded in applying the provisions of such subsections for periods following such suspension."

NAVAL PETROLEUM RESERVES

Sec. 804. (a) Section 7430(b) of title 10, United States Code, is amended by striking out "for periods of not more than one year," and inserting at the end thereof the following: "Each sale of the United States share of petroleum shall be for periods of not more than one year, except that a sale of natural gas may be made for a period of more than one year."

(b) Section 7430(k) of title 10, United States Code, is amended to read as follows:

"(k)(1) With respect to all or any part of the United States share of petroleum produced from the naval petroleum reserves, the President may direct that the Secretary—

"(A) place that petroleum in the Strategic Petroleum Reserve as authorized by sections 151 through 166 of the Energy Policy and Conservation Act (42 U.S.C. 6231-6246); or

"(B) exchange, directly or indirectly, that petroleum for other petroleum to be placed in the Strategic Petroleum Reserve under such terms and conditions and by such methods as the Secretary determines to be appropriate, without regard to otherwise applicable Federal procurement statutes and regulations.

"(2) The requirements of section 159 of the Energy Policy and Conservation Act (42 U.S.C. 6239) do not apply to actions taken under this subsection."

(c) Section 7430 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(1) Notwithstanding any other provision of this chapter (but subject to paragraph (2)), during any period in which the production of petroleum is authorized from Naval Petroleum Reserves Numbered 1, 2, or 3, the Secretary, at the request of the Secretary of Defense, may provide any portion of the United States share of petroleum so produced to the Department of Defense for its use, exchange, or sale in order to meet petroleum product requirements of the Department of Defense.

"(2) Petroleum may be provided to the Department of Defense under paragraph (1) either directly or by such exchange as the Secretary deems appropriate. Appropriate reimbursement reasonably reflecting the fair market value shall be provided by the Secretary of Defense for petroleum provided under this subsection.

"(3) Any exchange made pursuant to this subsection may be made without regard to otherwise applicable Federal procurement statutes and regulations.

"(4) Paragraph (1) does not apply to any petroleum set aside for small refiners under subsection (d) of this section or placed in the Strategic Petroleum Reserve under subsection (k) of this section."

ALLOCATION TO STRATEGIC PETROLEUM RESERVE OF LOWER TIER CRUDE OIL; USE OF FEDERAL ROYALTY OIL

Sec. 805. (a)(1) In order to carry out the requirement of the amendment made by section 801 of this Act and to carry out the policies and objectives established in sections 151 and 160(b)(1) of the

42 USC 6240
note.

- 15 USC 753. Energy Policy and Conservation Act (42 U.S.C. 6231 and 6240(b)(1)), the President shall, within 60 days after the date of the enactment of this Act, promulgate and make effective an amendment to the provisions of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 relating to entitlements, which has the same effect as allocating lower tier crude oil to the Government for storage in the Strategic Petroleum Reserve. Such amendment shall not apply with respect to crude oil purchased after September 30, 1981, for storage in such reserve.
- (2) The authority provided by this subsection shall be in addition to, and shall not be deemed to limit, any other authority available to the President under the Emergency Petroleum Allocation Act of 1973 or any other law.
- 42 USC 7191. (3) The President or his delegate may promulgate and make effective rules or orders to implement this subsection without regard to the requirements of section 501 of the Department of Energy Organization Act or any other law or regulation specifying procedural requirements.
- (b) In addition to the requirement under subsection (a), the President may direct that—
- (1) all or any portion of Federal royalty oil be placed in storage in the Reserve,
 - (2) all or any portion of Federal royalty oil be exchanged, directly or indirectly, for other crude oil for storage in the Reserve, or
 - (3) all or any portion of the proceeds from the sales of Federal royalty oil be transferred to the account established under subsection (c) for use for the purchase of crude oil for the Reserve, as provided in subsection (c).
- (c)(1) Any proceeds—
- (A) from the sale of entitlements received by the Government under the amendment to the regulation made under subsection (a), and
 - (B) to the extent provided in subsection (b), from the sale of Federal royalty oil,
- shall be deposited in a special account which the Secretary of the Treasury shall establish on the books of the Treasury of the United States.
- 42 USC 7270. (2)(A) Subject to the provisions of any Act enacted pursuant to section 660 of the Department of Energy Organization Act, such account shall be available (except as provided in subparagraph (B)) for use by the Secretary of Energy, without fiscal year limitation, for the purchase of crude oil for the Strategic Petroleum Reserve, to the extent provided in advance in appropriation Acts.
- (B) Amounts in such account attributable to the proceeds from the sale of entitlements under the amendment to the regulation under subsection (a) are hereby appropriated for fiscal year 1981 for acquisition of crude oil for the Strategic Petroleum Reserve pursuant to subsection (a).
- Definitions. (d) For purposes of this section—
- (1) the terms "entitlements", "crude oil", and "allocation" shall have the same meaning as those terms have as used in the Emergency Petroleum Allocation Act of 1973 (and the regulation thereunder);
 - (2) the term "lower tier crude oil" means crude oil which is subject to the price ceiling established under section 212.73 of title 10, Code of Federal Regulations;
- 15 USC 751 note.

(3) the term "Federal royalty oil" means crude oil which the United States is entitled to receive in kind as royalties from production on Federal land (as such term is defined in section 8(10) of the Energy Policy and Conservation Act (42 U.S.C. 6202(10)); and

(4) the term "proceeds from the sale of Federal royalty oil" means that portion of the amounts deposited into the Treasury of the United States from the sale of Federal royalty oil which is not otherwise required to be disposed of (other than as miscellaneous receipts) pursuant to (A) the provisions of section 35 of the Act of February 25, 1920, as amended (41 Stat. 450; 30 U.S.C. 191), commonly known as the Mineral Lands Leasing Act, or (B) the provisions of any other law.

Approved June 30, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-165 accompanying H.R. 3930 (Comm. on Banking, Finance, and Urban Affairs) and No. 96-1104 (Comm. of Conference).

SENATE REPORTS: No. 96-166 (Comm. on Banking, Housing, and Urban Affairs), No. 96-387 (Comm. on Energy and Natural Resources and Comm. on Banking, Housing, and Urban Affairs), and No. 96-824 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 125 (1979): June 20, considered and passed Senate.

June 26, H.R. 3930 considered and passed House; passage vacated and S. 932, amended; passed in lieu.

Nov. 5, 7, 8, Senate concurred in House amendments with amendments.

Vol. 126 (1980): June 19, Senate agreed to conference report.

June 26, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 27 (1980): June 30, Presidential statement.

2. SUMMARY OF THE "ENERGY SECURITY ACT"

Title I Synthetic Fuels would create an independent, federally chartered financial institution, the United States Synthetic Fuels Corporation, to provide various forms of financial assistance to private industry to foster the commercial production of liquid and gaseous fuels from coal, shale rock and tar sands, and hydrogen from water. The legislation establishes a production goal of at least 500,000 barrels of crude oil equivalent by 1987, increasing to 2 million barrels a day by 1992.

Until the Corporation is set up, the President could use up to \$3 billion of the \$20 billion authorized in the legislation to run the program under authority provided him under the Defense Production Act to offer purchase agreements, loans, and loan guarantees to stimulate synfuel production to meet national defense needs. Once the Synfuels Corporation becomes operational the DPA authorities would go into "standby" status, but could be reactivated if a national supply shortage threatened direct defense and defense industrial base needs.

The Synthetic Fuels Corporation would be headed by a seven-member Board of Directors, appointed by the President and confirmed by the Senate for seven-year staggered terms. The Corporation can employ up to 300 full time professionals and would be advised by a six-member Committee composed of the Secretaries of Energy, Interior, Defense and Treasury, the Chairman of the Energy Mobilization Board, and the Administrator of EPA. An annual authorization of \$35 million for administrative expenses and \$10 million for contract studies is provided.

The financial resources available to the Corporation over its 12-year lifetime would be up to a maximum \$88 billion, subject to appropriations. Appropriations are to be deposited in the Energy Security Reserve (established by the Fiscal 1980 Interior Appropriations, PL 96-126). The synthetic fuel program is to proceed in two phases.

In the first phase, the Synthetic Fuels Corporation could spend up to \$20 billion, authorized upon enactment, to provide financial assistance in the following order of descending priority: for purchase agreements, loan guarantees and price guarantees (up to 75 percent of project cost); for direct loans (up to 49 percent of cost and up to 75 percent if needed to ensure project viability); to enter into joint ventures (where the government would provide up to 75 percent of cost); or, as a last resort, to set up government-owned, contractor-operated facilities to stimulate a domestic fuels industry. (An initial appropriation of \$18.79 billion has already been provided in PL 96-126.)

Within four years of enactment, the Corporation must develop and submit to Congress a comprehensive plan for achievement of the production goals. Congress could then decide by joint resolution

(171)

whether to accept the plan and provide subsequent installments, up to an additional \$68 billion, subject to appropriations. The Corporation could not obligate funds after September 30, 1992, and must end operations by September 30, 1997.

Title II Biomass, Alcohol Fuels, Urban Waste would authorize \$1.2 billion for fiscal 1981 and 1982 for programs in both the Departments of Agriculture and Energy to aid commercial production of alcohol and other fuels from crops and crop waste, timber, and animal and timber waste and other forms of biomass; and \$250 million for urban waste activities administered by the Department of Energy.

In addition, USDA and DOE would be required within six months of enactment to prepare an overall plan for biomass development designed to reach an alcohol production level of 60,000 barrels a day by the end of 1982, and by January 1982, the two departments must submit a plan to reach production levels equal to 10 percent of estimated gasoline consumption in 1990.

Title III Energy Targets would require the President to submit annually as a separate title of the DOE authorization bill, non-binding targets for energy imports, production, and consumption for 1985, 1990, 1995 and 2000.

Title IV Renewable Energy contains various financial and administrative incentives for renewable energy development, including deployment of photovoltaic systems, small hydro-electric systems, and a \$10 million authorization for demonstrating energy self sufficiency through the use of renewable energy resources in one or more states.

Title V Energy Bank would establish a Solar Energy and Energy Conservation Bank within the Department of Housing and Urban Development to provide subsidized loans for conservation or solar investments in residential or commercial buildings. Subsidy levels would be set on a sliding scale depending on the borrowers' income and type of structure.

For solar projects, the subsidies would range from 60 percent of cost for those with incomes below 80 percent of area median, to 40 percent for owners with income above 160 percent of area median. The maximum subsidy for a single family residence would be \$5,000. Owners of small commercial buildings and larger apartment buildings would be eligible for up to 40 percent subsidies. The maximum commercial subsidy would be set at \$100,000, the apartment building subsidy at \$2,500 per unit. For conservation projects, loans could range from 50 percent of cost for those with incomes 80 percent of the area median, to 20 percent for owners with incomes between 120-150 percent of area median. The maximum subsidies would range from \$1,250 for those with lowest incomes to \$500 for those with highest eligible incomes. Commercial building and apartment building owners could get a maximum 20 percent subsidy, up to \$5,000 and \$400 per unit, respectively.

The Bank is established through fiscal 1987. Authorizations are set at \$2.5 billion for conservation projects for fiscal 1981-1984 and \$525 million for solar purposes for fiscal 1981-1983.

This title also contains provisions designed to improve residential and industrial energy conservation that would remove the prohibition on utility financing of residential energy conservation measures;

authorize \$10 million for fiscal 1981 and 1982 for a pilot program under which utilities would contract with private companies to conduct energy audits and install conservation equipment; authorize \$25 million over two years for training of energy auditors and \$40 million in each fiscal 1981 and 1982 for industry research and development.

Title VI Geothermal Energy would authorize \$85 million in loan and loan guarantees for geothermal reservoir confirmation. An additional \$5 million is authorized for feasibility studies in fiscal 1981. Funding for construction loans is deferred until fiscal 1982.

Title VII Acid Rain would authorize \$45 million for a ten-year study of the causes and effects of acid rain and \$3 million for a three-year study of the impact of fossil fuel combustion, coal conversion and synfuel activities on the level of carbon dioxide in the atmosphere.

Title VIII Strategic Petroleum Reserve would require the federal government to begin filling the SPR at a minimum average rate of 100,000 barrels per day. If this fill rate is not achieved, the bill would direct that any production from the naval petroleum reserve at Elk Hills be sold or exchanged so as to be stored in the SPR. The President would also be directed to amend regulations under the Emergency Petroleum Allocation Act to allow allocation of lower-priced (low-tier) oil to the SPR, until October 1, 1981.

Cost: S. 932 would involve authorizations of \$21.9 billion in fiscal 1981, and \$3 billion for fiscal 1982-85. After four years, an additional \$68 million could be authorized upon congressional approval.

3. JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE ON S. 933

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing views of the two Houses on the amendments of the Senate to the amendments of the House to the bill, S. 933, to amend the Defense Production Act of 1950, as amended, submit the following joint statement to the House and the Senate in explanation of the effect of the House amendments upon the management and action reported in the accompanying conference report.

The House amendments to the bill of the Senate, S. 933, of the Senate will affect the amendments of the House to the bill of the Senate.

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HOUSE AMENDMENTS

This act shall be amended to conform with the amendments of the Senate to the amendments of the House to the bill of the Senate.

SENATE AMENDMENTS

1. The House amendments to the bill of the Senate.

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- Sec. 117. Officers and employees.
- Sec. 118. Conflicts of interest and financial disclosure.
- Sec. 119. Delegation.
- Sec. 120. Authorization of administrative expenses.
- Sec. 121. Public access to information.
- Sec. 122. Inspector General.
- Sec. 123. Advisory Committee.

SUBTITLE C—PRODUCTION GOAL OF THE CORPORATION

- Sec. 125. National synthetic fuel production goal.
- Sec. 126. Production strategy.
- Sec. 127. Solicitation of proposals.
- Sec. 128. Congressional disapproval procedure.
- Sec. 129. Congressional approval procedure.

SUBTITLE D—FINANCIAL ASSISTANCE

- Sec. 131. Authorization of financial assistance.
- Sec. 132. Loans made by the Corporation.
- Sec. 133. Loan guarantees made by the Corporation.
- Sec. 134. Price guarantees made by the Corporation.
- Sec. 135. Purchase agreements made by the Corporation.
- Sec. 136. Joint ventures by the Corporation.
- Sec. 137. Control of assets.
- Sec. 138. Unlawful contracts.
- Sec. 139. Fees.
- Sec. 140. Disposition of securities.

SUBTITLE E—CORPORATION CONSTRUCTION PROJECTS

- Sec. 141. Corporation construction and contractor operation.
- Sec. 142. Limitations on Corporation construction projects.
- Sec. 143. Environmental, land use, and siting matters.
- Sec. 144. Project reports.
- Sec. 145. Financial records.

SUBTITLE F—CAPITALIZATION AND FINANCE

- Sec. 151. Obligations of the Corporation.
- Sec. 152. Limitations on total amount of obligational authority.
- Sec. 153. Budgetary treatment.
- Sec. 154. Receipts of the Corporation.
- Sec. 155. Tax status.

SUBTITLE G—UNLAWFUL ACTS, PENALTIES, AND SUITS AGAINST THE CORPORATION

- Sec. 161. False statements.
- Sec. 162. Forgery.
- Sec. 163. Misappropriation of funds and unauthorized activities.
- Sec. 164. Conspiracy.
- Sec. 165. Infringement on name.
- Sec. 166. Additional penalties.
- Sec. 167. Suits by the Attorney General.
- Sec. 168. Civil actions against the Corporation

SUBTITLE H—GENERAL PROVISIONS

- Sec. 171. General powers.
- Sec. 172. Coordination with Federal entities.
- Sec. 173. Patents.
- Sec. 174. Small and disadvantaged business utilization.
- Sec. 175. Relationship to other laws.
- Sec. 176. Severability.
- Sec. 177. Fiscal year, audits and reports.
- 178. Inter rights.
- Western hemisphere projects.
- Completion guarantee study.

SUBTITLE I—DISPOSAL OF ASSETS

- Sec. 181. Tangible assets.**
- Sec. 182. Disposal of other assets.**

SUBTITLE J—TERMINATION OF CORPORATION

- Sec. 191. Date of termination.**
- Sec. 192. Termination of the Corporation's affairs.**
- Sec. 193. Transfer of powers to Department of the Treasury.**

SUBTITLE K—DEPARTMENT OF THE TREASURY

- Sec. 195. Authorizations.**

TITLE II—BIOMASS ENERGY AND ALCOHOL FUELS

- Sec. 201. Short title.**
- Sec. 202. Findings.**
- Sec. 203. Definitions.**
- Sec. 204. Funding for subtitles A and B.**
- Sec. 205. Coordination with other authorities and programs.**

SUBTITLE A—GENERAL BIOMASS ENERGY DEVELOPMENT

- Sec. 211. Biomass Energy Development Plans.**
- Sec. 212. Program responsibility and administration; effect on other programs.**
- Sec. 213. Insured loans.**
- Sec. 214. Loan guarantees.**
- Sec. 215. Price guarantees.**
- Sec. 216. Purchase agreements.**
- Sec. 217. General requirements regarding financial assistance.**
- Sec. 218. Reports.**
- Sec. 219. Review; reorganization.**
- Sec. 220. Establishment of Office of Alcohol Fuels in Department of Energy.**
- Sec. 221. Termination.**

SUBTITLE B—MUNICIPAL WASTE BIOMASS ENERGY

- Sec. 231. Municipal waste energy development plan.**
- Sec. 232. Construction loans.**
- Sec. 233. Guaranteed construction loans.**
- Sec. 234. Price support loans and price guarantees.**
- Sec. 235. General requirements regarding financial assistance.**
- Sec. 236. Financial assistance program administration.**
- Sec. 237. Commercialization demonstration program pursuant to Federal Non-nuclear Energy Research and Development Act of 1974.**
- Sec. 238. Jurisdiction of Department of Energy and Environmental Protection Agency.**
- Sec. 239. Establishment of Office of Energy From Municipal Waste in Department of Energy.**
- Sec. 240. Termination.**

SUBTITLE C—RURAL, AGRICULTURAL, AND FORESTRY BIOMASS ENERGY

- Sec. 251. Model demonstration biomass energy facilities.**
- Sec. 252. Biomass energy research and demonstration projects.**
- Sec. 253. Applied research regarding energy conservation and biomass energy production and use.**
- Sec. 254. Forestry energy research.**
- Sec. 255. Biomass energy educational and technical assistance.**
- Sec. 256. Rural energy extension work.**
- Sec. 257. Coordination of research and extension activities.**
- Sec. 258. Lending for energy production and conservation projects by production credit associations, Federal land banks, and banks for cooperatives.**
- Sec. 259. Agricultural conservation program; energy conservation cost sharing.**

- 22 260 Production of commodities on set-aside acreage.
- 22 261 Utilization of National Forest System in wood energy development projects.
- 22 262 Forest Service leases and permits.

STRUTITE I—MISCELLANEOUS BODMAS PROVISIONS

- 22 271 Use of gasoline in Federal motor vehicles.
- 22 272 Motor vehicle alcohol usage study.
- 22 273 Natural gas priorities.
- 22 274 Study authority for utilization of alcohol fuel.

TITLE III—ENERGY TARGETS

- 22 281 Determination of energy targets.
- 22 282 Congressional authorization.
- 22 283 Energy targets.
- 22 284 General provisions regarding targets.

TITLE IV—RENEWABLE ENERGY INITIATIVES

- 22 401 Solar energy.
- 22 402 Wind energy.
- 22 403 Geothermal energy.
- 22 404 Governmental establishment of information on renewable energy resources and utilization.
- 22 405 Establishment of energy conservation units for Federal buildings.
- 22 406 Energy conservation initiatives.
- 22 407 Energy conservation.
- 22 408 Energy conservation.
- 22 409 Energy conservation.

TITLE V—ENERGY CONSERVATION AND ENERGY CONSERVATION

- 22 501 Energy conservation.

TITLE VI—ENERGY CONSERVATION AND ENERGY CONSERVATION BANK

- 22 601 Energy conservation.
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Part 2—Secondary Financing

- Sec. 531.** Authority of solar energy and energy conservation bank to purchase loans and advances of credit for residential energy conserving improvements or solar energy systems.
- Sec. 532.** Authority of solar energy and energy conservation bank to purchase mortgages secured by newly constructed homes with solar energy systems.
- Sec. 533.** Repeal.
- Sec. 534.** Secondary financing by Federal Home Loan Mortgage Corporation and by Federal National Mortgage Association.

SUBTITLE B—UTILITY PROGRAM

- Sec. 541.** Definitions.
- Sec. 542.** State list of suppliers and contractors—required warranty.
- Sec. 543.** State list of financial institutions.
- Sec. 544.** Treatment of utility costs.
- Sec. 545.** Tax treatment.
- Sec. 546.** Supply, installation, and financing by public utilities.
- Sec. 547.** Authority to monitor and terminate supply installation, and financing by utilities.
- Sec. 548.** Unfair competitive practices.
- Sec. 549.** Effective date.
- Sec. 550.** Relationship to other laws.

SUBTITLE C—RESIDENTIAL ENERGY EFFICIENCY PROGRAM

- Sec. 561.** Purpose.
- Sec. 562.** Amendment to the National Energy Conservation Policy Act.
- Sec. 563.** Amendment to the table of contents.

SUBTITLE D—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

- Sec. 565.** Amendment to the National Energy Conservation Policy Act.
- Sec. 566.** Amendment to the table of contents.

SUBTITLE E—WEATHERIZATION PROGRAM

- Sec. 571.** Limitations on administrative expenditures.
- Sec. 572.** Expenditures for labor.
- Sec. 573.** Selection of local agencies.
- Sec. 574.** Standards and procedures for the weatherization program.
- Sec. 575.** Limitations on expenditures.
- Sec. 576.** Authorization of appropriations.
- Sec. 577.** Technical amendments.

SUBTITLE F—ENERGY AUDITOR TRAINING AND CERTIFICATION

- Sec. 581.** Purpose.
- Sec. 582.** Definitions.
- Sec. 583.** Grants.
- Sec. 584.** Authorization of appropriations.

SUBTITLE G—INDUSTRIAL ENERGY CONSERVATION

- Sec. 591.** Authorization of appropriations.

SUBTITLE H—COORDINATION OF FEDERAL ENERGY CONSERVATION FACTORS AND DATA

- Sec. 595.** Consensus on factors and data for energy conservation standards.
- Sec. 596.** Use of factors and data.
- Sec. 597.** Report.

TITLE VI—GEOTHERMAL ENERGY

- Sec. 601.** Short title.
- Sec. 602.** Findings.

SUBTITLE A

- Sec. 611. Loans for geothermal reservoir confirmation.
- Sec. 612. Loan size limitation.
- Sec. 613. Loan rate and repayment.
- Sec. 614. Program termination.
- Sec. 615. Regulations.
- Sec. 616. Authorizations.

SUBTITLE B

- Sec. 621. Reservoir insurance program study.
- Sec. 622. Establishment of program.

SUBTITLE C

- Sec. 631. Feasibility study loan program.

SUBTITLE D

- Sec. 641. Amendments to Geothermal Research, Development, and Demonstration Act.
- Sec. 642. Use of geothermal energy in Federal facilities.
- Sec. 643. Amendments to Federal Power Act and Public Utility Regulatory Policies Act.
- Sec. 644. Regulations.

TITLE VII—ACID PRECIPITATION PROGRAM AND CARBON DIOXIDE STUDY

SUBTITLE A—ACID PRECIPITATION

- Sec. 701. Short title.
- Sec. 702. Statement of findings and purpose.
- Sec. 703. Interagency Task Force; comprehensive program.
- Sec. 704. Comprehensive research plan.
- Sec. 705. Implementation of comprehensive plan.
- Sec. 706. Authorization of appropriations.

SUBTITLE B—CARBON DIOXIDE

- Sec. 711. Study.
- Sec. 712. Authorization of appropriations.

TITLE VIII—STRATEGIC PETROLEUM RESERVE

- Sec. 801. President required to resume fill operations.
- Sec. 802. Use of crude oil from Elk Hills Reserve.
- Sec. 803. Suspension during emergency situations.
- Sec. 804. Naval petroleum reserves.
- Sec. 805. Allocation to strategic petroleum reserve of lower tier crude oil; use of Federal royalty oil.

TITLE I—SYNTHETIC FUELS

PREFACE

The purpose of Title I is to accelerate the development of a synthetic fuel industry in the United States. To accomplish this objective, this title is divided into two parts. Part A, which amends the Defense Production Act of 1950 (DPA), provides authority for a "fast start" interim program utilizing existing Federal departments and agencies to expedite the development and production of synthetic fuels to meet national defense needs. The President of the United States is directed to put this program into effect immediately upon enactment. The con-

ferrees believe that no time should be lost during the period before the United States Synthetic Fuels Corporation established in Part B becomes fully operational. Once the President has determined the Corporation is fully operational, these Part A authorities are placed on a "standby" basis for possible reactivation in serious energy supply shortage situations. The two parts of title I are separate and independent authorities.

FINDINGS AND PURPOSES (SEC. 100)

Findings (Sec. 100(a))

Section 100(a) sets forth Congressional findings that energy security is essential to the United States and that dependence on foreign energy resources can be significantly reduced by the production by 1987 of at least 500,000 barrels of crude oil equivalent per day of synthetic fuels and by 1992 of at least 2,000,000 barrels of crude oil equivalent per day of synthetic fuels from domestic resources.

In addition, the Congress finds that the attainment of these synthetic fuel production goals requires a commitment of Federal capital through the establishment of an independent Federal entity of limited duration to provide financial assistance in conjunction with private sources of capital to facilitate the expeditious achievement of synthetic fuel production from domestic resources.

Purposes (Sec. 100(b))

Section 100(b) states that among the purposes of this part is the utilization to the fullest extent of the Constitutional powers of Congress to improve the nation's balance of payments, reduce the threat of economic disruption from oil supply interruptions, and increase the nation's security by reducing dependence upon imported oil. The section contains Congressional findings that these purposes can be served by early demonstration of the practicality of commercial production of synthetic fuels from domestic resources employing the widest diversity of feasible technologies, by fostering the creation of commercial synthetic fuel production facilities of diverse types, by creating the United States Synthetic Fuels Corporation which would be a Federal entity of limited duration to provide financial assistance to undertake synthetic fuel projects, by providing financial assistance to encourage the flow of capital funds, by encouraging private capital investment in the development of domestic sources of synthetic fuel, by encouraging and supplementing private capital investments, by fostering greater energy security so as to reduce the nation's economic vulnerability from disruptions and imported energy supplies, and by giving special consideration to the production of synthetic fuels which have national defense application and expediting their initial development through the Defense Production Act of 1950.

PART A—DEVELOPMENT OF SYNTHETIC FUELS UNDER THE DEFENSE PRODUCTION ACT OF 1950

Part A amends the Defense Production Act of 1950 to undertake the "fast-start" interim program. When the President has determined that the United States Synthetic Fuels Corporation is fully opera-

tional, the "fast start" authorities go into "standby" status, for possible reactivation, along with certain additional authorities, when severe energy supply shortages require their use. However, any existing contracts may be renewed and extended subject to the appropriation of funds after the President's determination. Part A modernizes and updates long standing provisions of the Act in the context of today's problems and challenges. The following describes those changes along with their intent:

Short title—(Sec. 101)

Section 101 provides that the short title of this part may be cited as the "Defense Production Act Amendments of 1980."

Declaration of policy—(Sec. 102)

This section amends the "Declaration of Policy" of the Defense Production Act of 1950 to add as one of the Act's purposes U.S. Government responses to foreign actions which could reduce or terminate the availability of strategic and critical materials, and states that "energy" is to be included in that category. The conferees note that existing law encourages the geographic dispersal of industrial facilities of the United States and believe, to the extent practicable, that this policy also should apply to the establishment of a synthetic fuel industry. The "Declaration of Policy" is amended to make it clear that it is necessary and appropriate, indeed essential, "to assure domestic energy supplies for national defense needs."

Amendments to title I—(priorities and allocations)

A new section 105 is added to make clear that nothing in the DPA shall be construed to authorize the President to institute, without the approval of Congress, a program for gasoline rationing.

A new section 106 specifically designates "energy" as a "strategic and critical material" for the purposes of the DPA. This section makes it clear that by virtue of such designation the President is not granted any new direct or indirect authority for the mandatory allocation or pricing of any fuel or feedstock including, but not limited to, crude oil, residual fuel oil, any refined petroleum product, natural gas, or coal or electricity or any other form of energy. Nor does this section grant any new direct or indirect authority to the President to engage in the production of energy in any manner whatsoever such as oil and gas exploration and development, or any energy facility construction, except as expressly provided in sections 305 and 306 for synthetic fuel production. However, it should be stressed that these prohibitions would not in any way limit any existing authorities of the President under the Defense Production Act of 1950 that otherwise may exist.

Title III—(expansion of productive capacity and supply)

Section 104 amends section 301(a) of the Defense Production Act of 1950 to update the specified agencies which may use the authority of this section by changing the Departments of the Army, Navy, and Air Force to the "Department of Defense," and by adding "the Department of Energy."

This section also is amended to make clear that, except as provided in sections 305 and 306, no authority contained in sections 301, 302, or 3 may be used in the development, production, or distribution of

synthetic fuel; for any synthetic fuel project; to assist any person for the purpose of providing goods or services to a synthetic fuel project; to provide any assistance to any person for the purchase of synthetic fuel. The effect of this prohibition is to consolidate synthetic fuel authorities in sections 305 and 306.

Section 104(b) amends subsection 301(e)(1) of the Defense Production Act of 1950 to increase the amount of discretionary loan guarantee authority under this section from \$20 million to \$38 million. It also changes the congressional oversight mechanism for loan guarantees exceeding the discretionary amount from the present requirement of an affirmative act of Congress to a one-House disapproval mechanism. These changes, as in section 104(c), apply to other than synthetic fuel loan guarantees.

Section 104(c) amends section 302 of the Defense Production Act of 1950 to increase the discretionary direct loan authority from \$25 million to \$48 million. The changes in the loan guarantee and direct loan authorities are made to reflect increased costs due to inflationary pressures which have occurred since the provisions were written a number of years ago.

The discretionary levels described in sections 104(b) and (c) above are really trigger points beyond which some Congressional notification and possible disapproval are required.

Section 104(d)(1) adds Presidential authority under section 303(a) of the DPA to make provision for the encouragement of the development of strategic and critical materials, metals, and minerals. This is intended to make it clear that existing authorities in the DPA would include energy, consistent with the new section 106 designating energy as a critical and strategic material.

Section 104(d)(2) amends section 303(b) of the DPA by extending the maturity date for the purchase, commitment and sales authority of this section to September 30, 1995.

Section 104(d)(3) deletes the requirement of a certification (section 303(g) of the DPA) by the Secretaries of Agriculture or Interior of a shortage of a strategic and critical material before the President could exercise the authority of this subsection to make provision for the development of substitutes for such strategic and critical materials. The Congress expects that the President would in any event be likely to consult with the appropriate Federal officials before exercising such authority.

"FAST-START" INTERIM SYNTHETIC FUEL AUTHORITIES (*Sec. 104(e)*)

Section 104(e) adds a new section 305 to title III of the Defense Production Act of 1950.

Subsection (a)(1)(A) of the new section 305 directs the President to take immediate action to achieve production of synthetic fuel to meet national defense needs, utilizing the provisions of this Act and any other applicable provision of law. The only exceptions would be the use of sections 101(a), 101(b), 301, 302, 303 of the DPA, and standby authorities which are contained in section 306 of the DPA.

Whenever needed, the President would be expected to invoke the authorities contained in section 101(c) of the DPA requiring the allo-

cation of materials and equipment, or the priority performance under contracts or orders in order to maximize domestic energy supplies, if he makes the necessary findings.

Subparagraph (B) directs the President to exercise the authorities of new section 305 in consultation with the Secretary of Energy: through the Department of Defense and any other Federal department or agency designated by the President; and consistent with an orderly transition to the separate authorities established pursuant to the United States Synthetic Fuels Corporation Act of 1980 (Part B of this title).

The Department of Defense, in carrying out the consultation requirement above, should provide the Secretary of Energy as rapidly as possible with its total requirements for mobility synthetic fuels and other alternative fuels by specification and quantity and the rate at which they are required for use in lieu of conventional fuels.

Paragraph (2) states that the new section 305 shall not affect the authority of the United States Synthetic Fuels Corporation.

Subsection (b) (1) (A) authorizes and directs the President, under certain conditions as specified in section 305, to contract for purchase of or commitments to purchase synthetic fuel for Government use to meet defense needs. He also shall issue loan guarantees and make direct loans in accordance with special procedures outlined in new sections 305 (b) (3) and 307 of the DPA. These forms of assistance may be provided only to persons who are participating in a synthetic fuel project, except that for purposes of fabrication or manufacture of any component for use in synthetic fuel projects, these types of assistance may be provided to any fabricator or manufacturer of such components. The conferees recognize that the rapid development of the synthetic fuel industry may require additional capacity to produce needed components to prevent delays and cost overruns.

In the use of loan guarantees and direct loans when those amounts exceed the limitations established in sections 301 or 302, the President must notify Congress and submit them to a procedure outlined in section 307. His proposed action is then either approved under expedited procedures or automatically permitted to go into effect unless disapproved by either House of the Congress.

Subsection (c) of the new section 305 authorizes the President to make purchase agreements and commitments to purchase, including advance payments, without regard to the limitations of existing law regarding the procurement of goods or services by the Government other than the limitations contained in this Act. Purchases or commitments to purchase involving higher than established ceiling prices (or if there are no established ceiling prices, current prevailing market prices) shall not be made unless it is determined that supplies of synthetic fuel cannot be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for national defense purposes.

However, advance payments may not be made unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met

Under subsection (d), any purchase of or commitment to purchase synthetic fuel shall be made by solicitation of sealed competitive bids. However, in any case in which no such bids are submitted, or the President determines that none submitted are acceptable, he may negotiate contracts for such purchases and commitments to purchase.

A price guarantee feature is contained in subsection (d) (3). Under this provision, any contract for such purchase or commitment to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price as specified in the contract exceeds the market price for such synthetic fuel on the delivery date. The market price shall be determined by the Secretary of Energy.

The new section 305 also contains safeguards designed to promote competition in the synthetic fuel industry by limiting Government purchases to not more than 100,000 barrels a day crude oil equivalent of synthetic fuel from any one company.

In addition, the President may not award any single contract to purchase or commit to purchase more than 75,000 barrels per day unless he submits a notification to Congress and the proposed contract is either approved under expedited procedures or not disapproved by either House of the Congress.

The new section 305 also has a number of other requirements. Foremost among these is that only synthetic fuel which is produced in the United States may be purchased. In addition, loans and loan guarantees are limited to synthetic fuel projects in the United States.

Each contract must also provide that the Government and all parties shall agree to review and possibly renegotiate the contract not later than ten years after the date of initial production. At the time of the review, the President shall determine the need for continued financial assistance. The conferees interpret the above provision to provide for renegotiation by mutual consent.

Under the provision of the new section 305, synthetic fuel delivered under contract will be used by the appropriate Federal agency. That Federal agency shall pay the prevailing market price for the product which the synthetic fuel is replacing, as determined by the Secretary of Energy, from money appropriated to the Federal agency for the purchase of fuel. In turn, the President shall pay from sums appropriated for this Act an amount equal to the amount by which the contract price for the synthetic fuel involved exceeds the prevailing market price.

The new section 305 also requires the President, in the consideration of any proposed contract, to take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under the contract. The procurement power granted to the President shall include the power to transport and store and have processed and refined any synthetic fuel product procured. However, to the greatest extent feasible, any synthetic fuel contracted for purchase should be suitable for direct use by the Armed Forces.

The President must determine that such synthetic fuel is needed to meet national defense needs and it is not anticipated that such synthetic fuel will be resold by the Government. In the event synthetic

fuel is acquired by the Government and is no longer needed to meet national defense needs and that fuel is not accepted by a Federal agency, the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve. The conferees further note that authority already exists for the exchange of such synthetic fuel for petroleum to help fill the Strategic Petroleum Reserve and intend that such authority be used to obtain other fuels for the Strategic Petroleum Reserve. If the fuel is not accepted by the Secretary of Energy, it shall be sold in accordance with applicable Federal law.

Any contract under new section 305, including any amendment or other modification, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under the contract determined as follows:

1. Loans shall be valued at the initial face value of the loan;
2. Guarantees shall be valued at the initial face value of the guarantee, including any amount of interest which is guaranteed;
3. Purchase agreements shall be valued as of the date of the contract based upon the President's estimate of its maximum liability; and
4. Any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, or purchase agreement shall be valued in accordance with each of the above, as the case may be.

If more than one form of assistance is provided to any synthetic fuel project, then the maximum liability under such contract shall be valued at the maximum potential exposure on the project at any time during its life.

The maximum liability calculated in accordance with this procedure is to be used to determine compliance with the limitation that there be no obligations in excess of appropriations.

This section requires that contracts be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of the contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts covered by this section.

Any commitment made under section 305 which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of the above paragraph.

In regard to Federal requirements for environmental impact statements, the new section 305 stipulates that no action in providing any loan, guarantee, or purchase agreement under section 305 of this Act shall be determined to be a major Federal action significantly affecting the quality of the human environment. The conferees firmly believe that the vulnerability of U.S. national security to current and possible fuel shortages requires the development of the synthetic fuel industry as quickly as possible. Even so, the conferees believe that environmental impact statements should be undertaken where applicable, for individual projects made possible under this program.

In regard to labor, the new section 305 provides that the Davis-Bacon Act shall apply to the construction, repair or alteration of any synthetic fuel project assisted by any loan or loan guarantee contract awarded under its provisions. However, purchase agreements would not be covered.

Part A provides that nothing in section 305 shall affect the jurisdiction of States or the Federal Government over waters, affect any interstate compact, or confer on any non-Federal entity the ability to exercise any Federal right to water. No project constructed pursuant to the authorities of this part shall be considered to be a Federal project for purposes of the application for, or assignment of water rights.

Section 305(k) (1) terminates the authority of the President to enter into any new contract or commitment on the date on which the President determines that the United States Synthetic Fuels Corporation is established and fully operational consistent with the provisions of the United States Synthetic Fuels Corporation Act of 1980. The conferees expect that the Corporation will be fully operational within nine months of enactment and not later than fifteen months after enactment. However, contracts entered into under section 305 before that date may be renewed and extended by the President after that date, but only to the extent that Congress has specifically appropriated funds for those purposes.

"STANDBY" SYNTHETIC FUEL AUTHORITIES

Section 104(e) creates a new section 306 of the Defense Production Act of 1950, which permits the President to invoke the "standby" authorities for the production of synthetic fuel, and establishes the circumstances under which those authorities may be invoked. Section 306 also spells out what the "standby" authorities are.

Section 306(a) requires the President to make certain findings before he may invoke the "standby" authorities. Those findings are: (1) That a national shortage of energy has resulted, or is likely to result, in a shortage of petroleum in the United States which is likely to exist long enough to threaten the adequacy of fuel supplies needed for the country's direct defense and direct defense industrial base programs; (2) The continued adequacy of needed supplies cannot be assured and requires expedited production of synthetic fuel; (3) The United States Synthetic Fuels Corporation is unable to accomplish such expedited production in a timely manner; and (4) It is necessary to use the "standby" authorities to obtain the expedited production. Section 306 makes clear that the President may invoke these authorities at any time after the enactment of the section, subject to making the findings, and the transmittal to Congress of a report setting forth the findings.

Section 306(a) also requires the President to include in his report to Congress his determination of what the extent of the anticipated petroleum shortage will be. If the President determines the shortage will be greater than 25 percent, the authorities are immediately invoked, subject to authorization and appropriations acts by Congress. If the anticipated shortage is determined by the President to be less than 25 percent, the President's findings and report to Congress are

Loan and loan guarantee authority under section 306 is authorized in the same manner and to the same extent as in section 305, and is subject to the same dollar limitations as in section 305 (\$33 million for guarantees and \$48 million for loans). Proposed loans or guarantees over those amounts are subject to the expedited approval or disapproval procedures of section 307.

The authority for purchases and commitments to purchase is to be exercised under section 306 in the same manner as is spelled out in section 305.

Section 306(c) requires that, before the President may utilize any of the authorities under this section, he must certify to Congress that each of the circumstances relating to actual or anticipated petroleum shortage which triggered his invocation of the section 306 authorities still exists at the time he proposes to use the authorities.

Section 306 also requires that there be an Act of Congress authorizing the President to utilize certain section 306 authorities before they may be exercised, since Part A provides no authorization of appropriations for carrying out the provisions of the section. Such an authorization is required for carrying out the loan, loan guarantee, and purchase authorities of section 306 of the DPA. And appropriations for the exercise of such section 306 authorities are required.

However, the exercise of the authorities to contract for Government-owned synthetic fuel projects and for expansion of Government-owned plants or the installation of Government-owned facilities at private plants would require specific authorization and appropriations acts by Congress on a project-by-project basis.

Section 306(d) reiterates the provisions of section 305 governing the purchase, and commitment to purchase, authority of section 305.

Section 306(e) reiterates the limitations on the purchase authority contained in section 305. Sealed competitive bidding is required and, if no acceptable bids are received, negotiated contracts are authorized. The right to refuse delivery and to pay the supplying contractor the difference between the contract price and a lower existing market price must be included in any purchase contract.

Safeguards designed to promote competition also are included. They restrict purchases from any one company to no more than 100,000 barrels per day. In addition they permit a single contract for more than 75,000 barrels per day only after the approval or disapproval review by Congress under the expedited procedures contained in section 307. All synthetic fuel under section 306 contracts must be produced from plants in the United States. Parties to each contract must agree to review and possibly renegotiate the contract within ten years. Synthetic fuels acquired by the Government under section 306 contracts must be sold for the same payment provisions of section 305. For the same payment provisions of section 305, the same payment provisions must be used for the sale of synthetic fuels. The power to transfer and refuel synthetic fuel is not to be used for any other purpose.

acquisition of synthetic fuel from Government synthetic fuel projects, as well as to the fuel acquired under contracts utilizing the other authorities of section 306.

Any synthetic fuel which is acquired by the Government and not needed for national defense or purchased by a Federal agency must be offered to the Secretary of Energy for possible storage in the Strategic Petroleum Reserve. Only after all of these requirements have been met, may the synthetic fuel acquired by the Government be sold, and such sales must be made in accordance with applicable Federal law.

Any contract under new section 306, including any amendment or other modification, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under the contract determined as follows:

1. Loans shall be valued at the initial face value of the loan;
2. Guarantees shall be valued at the initial face value of the guarantee, including any amount of interest which is guaranteed;
3. Purchase agreements shall be valued as of the date of the contract based upon the President's estimate of its maximum liability; and
4. Any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, or purchase agreement shall be valued in accordance with each of the above, as the case may be.

If more than one form of assistance is provided to any synthetic fuel project, then the maximum liability under such contract shall be valued at the maximum potential exposure on the project at any time during its life.

The maximum liability calculated in accordance with this procedure is to be used to determine compliance with the limitation that there be no obligations in excess of appropriations.

The costs of expanding Government-owned plants and installing Government-owned equipment in private plants must be valued at the initial face value of each contract. Government construction projects must be valued at the estimated cost to the Government at any one time, with this cost to be computed annually by the President. Any increased costs resulting from amendments or modifications to contracts for the above two types of projects must be added to the valuation of the Government's liability.

This section requires that contracts be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of the contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts covered by this section.

Any commitment made under section 306 which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of the above paragraph.

The provision of any loan, loan guarantee, or purchase agreement under section 306 is not deemed to be a major Federal action for purposes of section 102(2)(C) of the National Environmental Policy Act.

Synthetic fuel projects assisted by loans or loan guarantees under the provisions of section 306 are subject to the provisions of the Davis-Bacon Act.

Part A provides that nothing in section 306 shall affect the jurisdiction of States or the Federal Government over waters shall affect any interstate compact, or confer on any non-Federal entity the ability to exercise any Federal right to water. No project constructed pursuant to the authorities of this part shall be considered to be a Federal project for purposes of the application for or assignment of water-rights.

Section 306(1) authorizes the President to extend or renew contracts made under the provisions of section 306, provided that funds for this purpose have been appropriated in advance.

EXPEDITED PROCEDURES FOR CONGRESSIONAL CONSIDERATION OF SYNTHETIC FUEL ACTIONS

Section 104(e) of the Energy Security Act creates a new section 307 of the Defense Production Act of 1950. Section 307 establishes the expedited procedures to be followed in the Senate and the House of Representatives whenever the President transmits any matter required by section 305 or section 306 to be submitted to the Congress for consideration subject to approval or disapproval.

Section 307(a) establishes the term "synthetic fuel action" for any transmittal to Congress for consideration in accordance with the section 307 procedures.

Section 307(b) requires that a transmittal from the President shall bear an identification number and shall be transmitted to both Houses of Congress on the same day. Receipt by Congress is to be the first date after the transmittal on which both Houses are in session.

The effect of section 307(b) is to permit the President to go ahead with the proposed synthetic fuel action at the end of 30 calendar days of continuous session if, within that 30 days, neither House of Congress has enacted a resolution of disapproval of the proposed synthetic fuel action. The President may proceed with the action before the expiration of the 30-day period if both Houses have passed a resolution approving the action.

Under section 307(d), the counting of the 30 calendar day period is as follows: (1) continuity is broken if the Congress adjourns sine die; and (2) any adjournment of either House for 3 days to a day certain is not counted.

The effect of section 307(e) is to permit any provision of a synthetic fuel action to be put into effect later than the date on which the proposed action is approved.

Section 307(f) incorporates the procedures of the section as part of the rules of the House of Representatives and the Senate, and establishes that such rule supersedes other rules of the respective bodies only to the extent that it is inconsistent with other established rules. Section 307(f) also recognizes the constitutional right of either House of Congress to change the rule established by section 307 at any time.

Sections 307(g)(2) and 307(g)(3) provide the specific language to be used for a resolution of approval or disapproval. The only words

which may be inserted in either resolution are the name of the resolving House, the identification number of the proposed synthetic fuel action, and the date on which the proposed action was received.

Section 307(g)(4) requires that a resolution, once introduced, must be referred, whether in the House or the Senate, to a committee. This paragraph also requires that all resolutions pertaining to the same synthetic fuel action must be referred to the same committees.

Section 307(g)(5) provides a mechanism for discharging a committee from consideration of a synthetic fuel action. If the committee has not reported a resolution of approval or disapproval of the action within 90 days after the referral of the resolution, any member who favors the particular resolution may move on the Floor of the respective House to discharge the committee from further consideration of the resolution. Such a motion shall be a highly privileged motion, debate on the motion is limited to one hour divided equally between those favoring and those opposing the motion, and amendments to the motion or motions to reconsider the vote on the motion shall not be in order. Further, once the vote to discharge has been taken, the motion may not be renewed and no other motion to discharge the committee from consideration of any other resolution concerning the same synthetic fuel action may be made.

Section 307(g)(6) establishes the procedures in the Senate and House of Representatives for consideration of a resolution of approval of a synthetic fuel action once such resolution has been reported from committee or the committee has been discharged from further consideration of the resolution.

A motion to proceed to consideration of the resolution is in order at any time after the committee has reported or been discharged from consideration. That motion is highly privileged, not debatable, not amendable, and not subject to a motion to reconsider the vote on the motion.

Debate on the resolution of approval or disapproval of the synthetic fuel action is limited to five hours, divided equally between those approving and those opposing. A motion to further limit debate is not debatable. Only an amendment to the resolution in the nature of a substitute is in order, and a motion to recommit the resolution is not in order, nor is a motion to reconsider the vote on the resolution.

An amendment in the nature of a substitute must contain the exact words of the resolution under consideration, with only the words pertaining to approval or disapproval being substituted, as the case may be. Substitute amendments are not themselves amendable, and debate of substitute in the House of Representatives is subject to the 5-minute rule.

Section 307(g)(7) makes out of order any debate on motions to postpone motions to discharge, to consider a resolution, to consider a resolution of approval or disapproval, and to proceed to consideration of other business. Also nondebatable are appeals of the decision of the Chair applying the rules of the procedures relating to a resolution.

Section 307(g)(8) makes out of order a resolution once that re

Also, once a resolution pertaining to a synthetic fuel action has been approved in either House, a motion to consider any other resolution pertaining to that synthetic fuel action shall not be in order in that House.

Section 306 defines the various terms used throughout Part A of Title I of the Energy Security Act.

Section 306(a) defines a Government synthetic fuel project as a project undertaken under the provisions of section 306(c).

Section 306(b) defines the terms "synthetic fuel" and "synthetic fuel project."

"Synthetic fuel" is defined as any solid, liquid, or gas, or combination thereof, which can be used as a substitute for petroleum or natural gas (or any derivative thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of the following domestic resources: coal, including lignite and peat; shale; tar sands, including certain heavy oil resources; and water, as a source of hydrogen only through electrolysis. Heavy oil resources are included where (a) the cost and technical and economic risks make extracting and processing of a heavy oil resource uneconomic under applicable pricing and tax policies, and (b) the costs and risks are comparable to those associated with shale, coal, and tar sand resources (other than heavy oil) qualifying for assistance. For the purpose of this Act the term synthetic fuel includes mixtures of coal and combustible liquids including petroleum. Synthetic fuel does not include biomass (including timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants and other organic matter). Financial assistance for biomass is provided pursuant to Title II.

"Synthetic fuel project" is defined as any facility using an integrated process or processes which converts indigenous resources at a specific geographic location in the United States for the purpose of the commercial production of synthetic fuel. The term includes any necessarily related transportation or other facilities and includes the equipment, plant, and other materials associated with the facility. It may also include land, mineral rights, services and working capital which are directly required for use in connection with the facilities for the production of synthetic fuels. Specifically, the project may include only the facility which converts the domestic resource into a synthetic fuel and any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion which (a) is co-located with the conversion facility or if not co-located or located in the immediate vicinity is incidental to the project, except that in the event of a coal mine where no other reasonable source of coal is available to the project, the extraction facility is not limited to being incidental to the project; and (b) is necessary to the project.

Any transportation facility or electric powerplant or electric transmission line may only be included in a synthetic fuel project if it is (1) for exclusive use of the project, (2) incidental to the project, and (3) necessary to the project, except that any transportation facility used to transport synthetic fuel away from the project shall be used exclusively to transport such synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

A synthetic fuel project is also defined to be a project used solely for production of a mixture of coal and petroleum for direct use as a fuel; however, such a project may not include any mineral right, or facility or equipment for the extraction of any mineral. A synthetic fuel project also may include any project used solely for the commercial production of hydrogen from water by electrolysis. In addition, a synthetic fuel project may include any magnetohydrodynamics (MHD) topping cycle used solely for the commercial production of electricity; however, such a project would only be eligible for financial assistance in the form of a loan guarantee. For projects for coal-oil mixtures, MHD, and hydrogen from water, the President is to use a test that the projects will result in the replacement of a significant amount of oil. In the case of coal-oil mixtures, the conferees intend that the mixture contain a significant percentage of coal.

In the context of a definition of synthetic fuel project, definitions are provided for the terms "exclusive", "incidental", and "necessary". "Exclusive" means for the sole use of the project, except that an incidental byproduct might be used for other purposes. "Incidental" means a relatively small portion of the project cost. Examples of such "incidental" byproducts are waste heat, excess electricity from a powerplant, cogeneration power, and residues from a synthetic fuel process (including coal fines), which may be sold for other uses. "Necessary" means that the facility or equipment must be an integrated part of the project taking into account considerations of economy and efficiency of operations.

Section 305(c) defines the term "United States" as it is used in sections 305 and 306.

GENERAL PROVISIONS

Section 105 of Title I of S. 932 contains further amendments to the Defense Production Act of 1950 other than the amendments contained in sections 102, 103 and 104.

Section 105(a) amends section 711 (the basic authorization section) of the Defense Production Act to conform that section to the various amendments made by sections 103 and 104.

The existing Section 711(a) (redesignated by these amendments as 711(a)(1)), provides that "funds made available for purposes of this Act may be allocated or transferred for any of the purposes of this Act . . ." This section is amended by adding the words "pursuant to this paragraph" immediately after the word "available", to clarify the conferees' intent that existing DPA authorities to transfer funds among traditional DPA program activities would remain unaffected, but that funds made available for purposes of Sections 305 or 306 could only be used for purposes of those particular sections and could not be transferred for other DPA programs.

Section 105(a) also authorizes the appropriation, without fiscal year limitation, of the sum of \$3 billion to carry out the provisions of section 305. These funds are to remain available until the date the President determines the Synthetic Fuels Corporation is fully operational. After that date, any funds which have not been expended or obligated are to be transferred to the Energy Security Reserve

in the Department of the Treasury to be available for the use of the Synthetic Fuels Corporation.

Section 105(a) also authorizes the retention of funds not expended or obligated under section 305 authorities if they are required to be retained as a reserve against contingent obligations incurred before the President determines that the Synthetic Fuels Corporation is fully operational.

Section 105 also authorizes appropriation of such sums as are necessary for the renewal and extension of contracts entered into under the provisions of section 305.

Section 105(b) extends all the authorities of the Defense Production Act of 1950 to September 30, 1981.

The effect of section 105(c) is to require a study within six months of the enactment of this Part by the Office of Defense Mobilization (now superseded by various executive branch reorganizations) of the distribution of defense contracts to small businesses.

Section 106 requires the President to report annually to Congress on his activities under the provisions of sections 305 and 306.

Section 107 makes the amendments in Part A of Title I effective on the date of enactment of Part A.

PART B—UNITED STATES SYNTHETIC FUELS CORPORATION

SHORT TITLE

Section 111 provides that the part may be cited as a "United States Synthetic Fuels Corporation Act of 1980".

General Definitions (Sec. 112)

Section 112 provides a list of general terms and their definitions as used in the part.

The term "Board of Directors" is defined (112(1)) as the Board of Directors of the Corporation, including the Chairman and the six other Directors.

The term "Chairman" is defined (112(2)) as the Chairman of the Board of Directors of the United States Synthetic Fuels Corporation.

The term "concern" is defined (Sec. 112(3)) to include any person, State, local political subdivision, or multi-state entity provided such bodies possess necessary legal powers themselves. The term also includes any foreign government which is participating in a joint venture with any person, State, local subdivision, or multi-state entity; and any combination of the aforementioned.

The term "Corporation" is defined (Sec. 112(4)) as the United States Synthetic Fuels Corporation.

"Corporation construction project" is defined (112(5)) as only a synthetic fuel project undertaken in accordance with the provisions of Subtitle E.

"Director" is defined (112(6)) as a member of the Board of Directors, including the Chairman of the United States Synthetic Fuels Corporation.

"Financial assistance" is defined (Sec. 112(7)) to specifically include loans, loan guarantees or commitments to guarantee indebtedness, price guarantees or commitments to guarantee synthetic fuel prices.

purchase agreements, and limited joint ventures. In addition, financial assistance is defined to include purchase and lease-back of facilities pursuant to the restrictions provided in Section 137(c). Financial assistance does not include grants except for cost-sharing agreements pursuant to section 131(u).

"Indian tribe" is defined (Sec. 112(8)) as any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"Joint ventures" is defined (112(9)) as a synthetic fuel project module undertaken in accordance with the provisions of section 136.

"Loan" is defined (112(10)) as a loan, or commitment to a loan, made under section 132.

"Loan guarantee" is defined (112(11)) as guarantees of, or commitments to guarantee, indebtedness, including principal and interest which are made under section 133.

"Person" is defined (Sec. 112(12)) as an individual, company, co-operative, partnership or other specified business association or entity organized for business purposes.

"Price guarantee" is defined (112(13)) as a guarantee of, or a commitment to guarantee, the price received or to be received by a concern from the sale of synthetic fuel. Such term includes only the guarantee or the commitment to guarantee which is made under section 134.

"Purchase agreement" is defined (112(14)) as a contract to purchase synthetic fuel, a guarantee thereof, or a commitment thereof made under section 135.

"Qualified concern" is defined (112(15)) as a concern which shall demonstrate to the satisfaction of the Board of Directors evidence of its capability directly or by contract to undertake and complete the design, construction, and operation of the proposed synthetic fuel project.

"State" is defined (Sec. 112(16)) to include the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"Synthetic fuel" is defined (112(17)) as any solid, liquid, or gas, or combination thereof, which can be used as a substitute for petroleum or natural gas (or any derivative thereof including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking or desulfurizing) of the following domestic resources: coal, including lignite and peat; shale; tar sands, including certain heavy oil resources; and water, as a source of hydrogen only through electrolysis. Heavy oil resources are included where (a) the cost and technical and economic risks make extracting the processing of a heavy oil resource uneconomic under applicable pricing and tax policies, and (b) the costs and risks are comparable to those associated with shale, coal, and tar sand resources (other than heavy oil) qualifying for assistance. For the purpose of this Act the term synthetic fuel includes mixtures of coal and combustible liquids, including

petroleum. Synthetic fuel does not include biomass (including timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants and other organic matter). Financial assistance for biomass is provided pursuant to Title II.

"Synthetic fuel project" is defined (Sec. 112(16)) as any facility using an integrated process or processes which converts indigenous resources at a specific geographic location in the United States for the purpose of the commercial production of synthetic fuel. The term includes any necessarily related transportation or other facilities and includes the equipment, plant, and other materials associated with the facility. It may also include land, mineral rights, services and working capital which are directly required for use in connection with the facilities for the production of synthetic fuels. Specifically, the project may include only the facility which converts the domestic resource into a synthetic fuel and any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion which (a) is co-located with the conversion facility or if not co-located or located in the immediate vicinity is incidental to the project, except that in the event of a coal mine where no other reasonable source of coal is available to the project, the extraction facility is not limited to being incidental to the project; and (b) is necessary to the project.

Any transportation facility or electric powerplant or electric transmission line may only be included in a synthetic fuel project if it is (1) for exclusive use of the project, (2) incidental to the project, and (3) necessary to the project, except that any transportation facility used to transport synthetic fuel away from the project shall be used exclusively to transport such synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

Section 112(18) (B) states that a "synthetic fuel project" is also defined to be a project used solely for production of a mixture of coal and petroleum for direct use as a fuel; however, such a project may not include any mineral right, or facility or equipment for the extraction of any mineral. A synthetic fuel project also may include any project used solely for the commercial production of hydrogen from water by electrolysis; however, such a project would not be eligible for financial assistance in the form of a joint venture. In addition, a synthetic fuel project may include any magnetohydrodynamic (MHD) topping cycle used solely for the commercial production of electricity; however, such a project would only be eligible for financial assistance in the form of a loan guarantee or joint venture, but not both, and is not authorized for the purposes of Subtitle E. The corporation is to use a test that the projects included in subparagraph (B) will result in the replacement of a significant amount of oil. In the case of coal-oil mixtures the conferees intend that the mixture contain a significant percentage of coal.

In the context of the definition of synthetic fuel project, definitions are provided for the terms "exclusive" (paragraph (C)(i)), "incidental" (paragraph (C)(ii)), and "necessary" (paragraph (C)(iii)). "Exclusive" means for the sole use of the project, except that an incidental byproduct might be used for other purposes. "Inciden-

tal" means a relatively small portion of the project cost. Examples of such "incidental" byproducts are waste heat, excess electricity from a powerplant, cogeneration power, and residues from a synthetic fuel process (including coal fines), which may be sold for other uses. "Necessary" means that the facility or equipment must be an integrated part of the project taking into account considerations of economy and efficiency of operation.

SUBTITLE B—ESTABLISHMENT OF CORPORATION

Establishment (See 115)

Section 115(a) creates the United States Synthetic Fuels Corporation as a special purpose Federal entity to carry out the national synthetic fuel development program established in this part. Under this part the Corporation will provide financial assistance to the private sector for the purpose of bringing about the commercial production of synthetic fuel by private industry.

In order to expedite the achievement of the highly important national objectives of the legislation and obviate the delays that often beset programs administered by the departments and agencies of the Executive Branch this entity is established free of many of the constraints placed on such departments and agencies.

The powers and authorities contained in Part B have been developed and perfected after months of effort in the House-Senate conference following passage by the Senate of S. 932 on November 8, 1979. These new authorities contained in Part B are granted by the Congress exclusively for implementation by the independent Federal entity, the United States Synthetic Fuels Corporation.

The Federal powers and authority granted under this part shall constitute the sole and exclusive powers and authority of the Corporation. Federal and State laws made specifically applicable by this part will apply to the Corporation. For purposes of the application of laws generally, and except as expressly provided otherwise, it is intended that the Corporation be subject to Federal and State law to the extent such law is not incompatible with achievement in the national purposes of the legislation. The Corporation will be accountable for its actions in accordance with the provisions of this part. Because of the nature of its activities, which are principally to provide financial assistance to the private sector, the Corporation is expected to function much like a private corporate entity such as a bank or other financial institution.

The principal office of the Corporation is to be located in the District of Columbia. The Corporation is authorized to establish offices elsewhere in the United States as determined appropriate by the Board of Directors (Sec. 115(b)).

The general powers of the Corporation are described in Section 171.

Board of Directors (116)

Section 116(a) (1) vests in a seven-member Board of Directors the powers of the Corporation, except for those functions, powers and duties vested in the Chairman of the Board by or pursuant to this part. Section 116(a) (2) provides that the Chairman and the Directors

all be appointed by the President, by and with the advice and consent of the Senate.

The Board of Directors is composed of a Chairman and six other Directors. (Sec. 116(b)(2)). (A non-voting Advisory Committee established in Section 123.) Not more than four of the Directors may be members of any one political party. The Chairman shall serve full time and hold no other salaried position. Compensation of the Directors would, under Section 116(g), be fixed initially by the President and may, with the concurrence of the President, be subsequently adjusted by the Board of Directors.

Subsection 116(b) provides that the Directors shall serve seven year staggered terms, with the term of the Chairman being 7 years. Provision is made for appointment of a replacement for any Director in the event of a vacancy, however, upon expiration of a term, a Director may continue to serve up to a maximum of one year or until replacement member has been confirmed, whichever is lesser. Prior to the expiration of his or her term, any Director may be removed from office by the President only for neglect of duty or malfeasance in office.

Subsection 116(c) provides that the President, at the time of appointment of each Director, other than the Chairman, shall designate whether a Director will serve either in a full-time or part-time capacity. Directors who are serving in a part-time capacity may not hold full-time salaried offices or full-time salaried positions in any federal, state or local unit of government. Directors who are serving in a full-time capacity shall not hold any other salaried position.

The prohibitions against outside employment by Directors contained in Section 116(c) are intended to insure that full-time Directors devote their full time and attention to the service of the Corporation and that part-time Directors not be full-time salaried officers or employees of the Federal or of any unit of state or local government. The Conferees intend that this subsection not preclude membership by Directors of the Corporation on public bodies such as local school boards or the boards of public eleemosynary institutions. The Conferees intend that no government official or employee be appointed to the Board of Directors or be employed by the Corporation. This subsection is not intended to prohibit service by Directors for compensation on private boards of directors provided that such membership is consistent with applicable law and not in conflict with or incompatible with a Director's obligations to the Corporation.

Subsection 116(d) provides that before assuming office, each Director shall take an oath to faithfully discharge the duties of the office. In addition, all directors must be citizens of the United States.

intended to make 5 U.S.C. 552b applicable to the Corporation. However, in patterning the grounds for the closing of meetings after those provided by that statute, the Conferees do intend that the body of law developed in litigation construing the exemptions provided in subsection (c) of Section 552b of Title 5 serve as precedent for construing the exemptive provisions of subsection 116(f).

Officers and Employees (Sec. 117)

The Chairman of the Board of Directors shall be the Chief Executive Officer of the Corporation responsible for its management and direction (Section 117(a)).

The Board of Directors shall establish the offices and appoint the officers of the Corporation, including a General Counsel and Treasurer, and define their duties (Sec. 117(b)(1)).

The compensation of the officers and categories of employees shall be established by the Board of Directors taking into consideration the Executive Schedule prescribed by subchapter II and the General Schedule prescribed by subchapter III of Chapter 53 of Title 5, United States Code. The Board may establish a compensation level for such officers or categories of employees' positions at a higher level than such schedule if not disapproved by the President within 30 days of such a recommendation by the Board of Directors to him (Sec. 117(b)(2)).

The Conferees intend that, to the maximum extent practicable, the rates of compensation of the Corporation's officers and employees will be fixed within the range of compensation in effect for Federal officers and employees under the Executive Schedule and General Schedule prescribed by subchapters II and III of chapter 53 of Title 5 of the United States Code. The Conferees recognize that such rates of compensation may prove inadequate to attract and retain the qualified, experienced professional personnel needed to carry on the business of the Corporation. The Conferees intend that the Board of Directors will identify officer positions and categories of employees for which higher levels of compensation are necessary; that the Board of Directors will recommend such higher levels to the President; and that such compensation be payable by the Corporation unless the Board's recommendation is disapproved by the President within thirty days after it is transmitted to him.

The Chairman of the Board shall, without regard to political factors, appoint, promote and may discharge all employees of the Corporation (Sec. 117(d) and (e)). Compensation of such employees shall be set by the Board of Directors (Sec. 117(b)(2)). The compensation for categories of employees of the Corporation shall be comparable to the General Schedule prescribed by subchapter III of chapter 53 of title 5, United States Code, unless the Board of Directors recommends to the President a higher compensation level for a category of employees and such recommendation is not disapproved by him within 30 days.

The Corporation is restricted to not employing more than 300 full-time professional employees at any one time. However, such limitation does not apply to Corporation construction projects (GOCO's) pursuant to subtitle E.

Except as specifically provided herein, Directors, officers and employees of the Corporation shall not be subject to the laws of the United States Government relating to Federal government employment (Sec. 117(c)).

It is acknowledged that the nature of the functions vested under this part with the Board of Directors of the United States Synthetic Fuels Corporation may impose upon the Directors the status of officers of the United States for Constitutional purposes, where performing such functions as (a) pledging the full faith and credit of the United States with respect to financial assistance agreements or (b) performing "significant governmental duties" imposed by this part within the meaning of *Buckley v. Valeo*, 424 U.S. 1 (1976).

However, it is intended that irrespective of the constitutional status of the Board of Directors, neither the Directors, the officers or the employees shall be regarded as officers or employees of the United States, except as specifically provided herein. Thus, for example, Directors, officers and employees of the Corporation are not to be regarded as employees of the United States for the purpose of eligibility for civil service retirement benefits.

Conflict of Interest and Financial Disclosure (Sec. 118)

The financial disclosure provisions of the Ethics in Government Act of 1978, which are applicable to Federal Executive Schedule employees, shall apply to all Directors, officers and employees of the Corporation "whose position is such that if he were employed by a Federal agency, the position would be classified as a GS-16 or above." This provision is tied to the schedule developed by the Board of Directors pursuant to Section 117 and is not a direct salary comparison with the civil service schedule. (Sec. 118(a))

Former Federal employees while employed by, or acting on behalf of, the Corporation are not subject to the provisions of law governing post-Federal employment activities (Sec. 118(b)).

Subsection 118(c) provides that a member of the Board of Directors shall disqualify himself from any decision in which he, his immediate family, or any entity which he is or will be employed by has a financial interest except that a majority of the Board may determine that the interest is too remote or inconsequential and permit the member to participate. While failure to disqualify himself, or disclose the interest and obtain permission of the other members of the Board constitutes grounds for removal of the member (paragraph 2), the validity of the decision of the Board of Directors is not affected.

The conferees also intend that the Board of Directors will establish guidelines to provide a requirement for officers and employees to disqualify themselves from taking any personal and substantial action on any matter affecting the type of actual or prospective financial interest described in Section 118(c)(1).

Subsection 118(d) applies the general Federal post-employment conflict of interest provisions to employees of the Corporation as if they were former Executive Branch employees.

Delegation (Sec. 119)

The powers of the United States Synthetic Fuels Corporation are vested in the Board of Directors, except as provided for in section 116(a)(1); however, the Board may delegate, by resolution, certain

functions, powers and duties to the Chairman as well as to other Directors (Sec. 118(a)). The Chairman of the Board may, in turn, by written instrument, delegate such functions, powers, and duties vested in or delegated to him to other full-time Directors, officers, or employees of the Corporation as he or she deems appropriate.

The Board of Directors is prohibited from delegating certain functions, powers and duties expressly vested in it. Such functions, powers and duties include those specified in the following sections: 116(f), 117(b), 118(c)(3), 126(a)(1)(D), 126(b), 127(c), (e), and (f), 131(a), (b) and (f), 132(a) and (d), 133(a) and (b), 134, 135(a), 136(a) and (b), 137(b) and (c), 141(a), 154, 171(a)(8) and (c), 173(a) and (b), 181(a) and (c), and 191(b).

Section 119(b) provides that notwithstanding any other provision of law, the President or any other officer or employee of the United States is prohibited from delegating to the Chairman, the Board of Directors, or the Corporation any power, function or authority not expressly authorized by the provisions of this Part. The only exception is where such delegation is pursuant to an authority in law which expressly makes reference to this subsection (Sec. 119(b)(2)). Consistent with this policy, notwithstanding any other provision of law, the Legislative Reorganization Act of 1977 would not apply to the transfer to the Corporation of any power, function, or authority (Sec. 119(b)(2)).

Authorization of Administrative Expenses (Sec. 120)

The Corporation is authorized not to exceed \$35 million per year for administrative expenses of which not to exceed \$2 million per year may be used for the Inspector General. Both these amounts are subject to annual inflation adjustments. In addition, the Corporation is authorized not to exceed \$10 million per year for generic contract studies and specific reviews by the private sector or with Federal agencies (Sec. 120). Such sums may not be used for acquisition of real property or for acquisition of Corporation construction projects or for joint ventures.

(Sec. 120(b)). Compensation of employees includes reimbursement of employees for travel expenses and per diem.

Funds for outside contracts for generic studies and specific reviews of individual applications could be drawn from the authorized amount of \$10 million per year but the funds for generic studies and specific reviews are not available for use of payment of any salaries or administrative expenses, or for reimbursement for personnel from government agencies. Funds for generic studies may not be used by the Corporation to exceed the personnel limits established by this part.

Section 119(c) authorizes the aforementioned expenditures without further appropriation; however, such expenditures must be in accordance with the Corporation's detailed statement of such expenditures which must be submitted annually to the Congress, except for fiscal years 1980 and 1981. The Conferees intend that such detailed statement provide sufficient information for Congressional oversight.

Public Access to Information (Sec. 121)

Section 121 requires the Corporation to make information regarding its organization, procedures, requirements, and activities available to the public upon request. The section establishes an obligation on

the Corporation to inform the public of its activities, subject to the same limitations and prohibitions on the disclosure of information that are applicable to federal agencies and federal officers and employees under 5 U.S.C. 552(b) and 18 U.S.C. 1905. Section 117 does not intend that the Freedom of Information Act (5 U.S.C. 552) be applicable as such to the Corporation. However, in patterning the present exemptions from disclosure to those contained in that statute, the Conferees do intend that the body of law developed in litigation construing the exemptions in 5 U.S.C. 552(b) serve as precedent for construing the exemptive provisions of Section 117.

Inspector General (Sec. 122)

Section 122 establishes an office of Inspector General within the Corporation and defines its function and responsibilities. The compensation of the Inspector General shall be fixed by the Board of Directors at a rate not less than that provided for Level III of the Executive Schedule under Section 5314 of Title 5, United States Code and, in the case of the Deputy Inspector General, at a rate not less than Level IV of the Executive Schedule.

Advisory Committee (Sec. 123)

Section 123 establishes a six-member Advisory Committee to the Board of Directors composed of the Secretaries of Defense, Energy, the Interior, and of the Treasury, the Administrator of the Environmental Protection, and the Chairman of the Energy Mobilization Board. The Chairman is appointed by the President (Sec. 123(b)). During meetings with the Board of Directors, the members of the Advisory Committee shall be governed by the laws and regulations respecting conflict of interest applicable to their respective Departments and agencies as such laws and regulations govern meetings with representatives of the private organization.

PRODUCTION GOALS OF THE CORPORATION (SUBTITLE C)

Overall Production Goal (Sec. 125)

Section 125 establishes as the national goal for the United States Synthetic Fuels Corporation for synthetic fuel production capability of 500,000 barrels per day of crude oil equivalent by 1987 and 2,000,000 barrels per day of crude oil equivalent by 1992, from domestic energy resources.

Production Strategy (Sec. 126)

Section 126 sets forth procedures for the solicitation and award of financial assistance, and establishment, within four years of enactment, of a comprehensive strategy to achieve the national synthetic fuel production goal established in Section 125.

Solicitation procedure: The procedure for awarding financial assistance is as follows: first, proposals are solicited pursuant to section 127(a) for synthetic fuel projects; second, financial assistance is awarded to those qualified concerns submitting proposals in response to the solicitation which the Board of Directors finds to be acceptable; third, if after soliciting and reviewing proposals there are insufficient acceptable proposals for financial assistance, the Board of Directors

...to the Corporation contract is necessary to achieve the purposes of this Part, and only in the event that there still are, in the judgment of the Board of Directors, insufficient proposals to achieve the purposes of this Part, the Corporation, subject to the requirements of this Part, may, pursuant to Subtitle E, enter contract for construction of a project or projects that it deems.

...to the Corporation construction projects pursuant to Subtitle E, the Corporation shall publish in the *Federal Register* a notice of construction of such a Corporation construction project and shall solicit proposals to meet such objectives through the use of market assistance mechanisms established under Subtitle E. Within thirty days after the publication of such notice, the Corporation does not receive an acceptable notice of interest in such a project, the Corporation may undertake such Corporation construction projects pursuant to Subtitle E.

...is the approval of a comprehensive production strategy, the strategy set forth as an objective for the Corporation that the Corporation shall support through assistance so as to both incorporate a comprehensive set of processes, methods and techniques for each synthetic resource which offers significant potential for use as a synthetic fuel, and as well as support those projects which have significant potential to achieve the national synthetic fuel production goal.

...on production strategy, Section 126(c) directs the Corporation, within four years of enactment, to develop a comprehensive strategy to achieve the national synthetic fuel production goal and to submit a proposed strategy to the Congress for approval pursuant to Section 126(c).

The comprehensive strategy must set forth the recommendations of the Board on the goals of the United States Synthetic Fuels Corporation and guidelines for their achievements. Such strategy shall include comprehensive reports on the findings from the facilities funding covering the four areas of funding under this Part. Such reports shall include information on the economic and technical feasibility of each facility and on the environmental information on product quality, quantity and cost, and on the environmental effects of the environmental effects of each facility as well as projected environmental effects and water use, minerals and recommendations concerning the specific types of technologies and resource types to be supported during the early and subsequent phases of the Corporation's funding, which, for the approval of the strategy (Sec. 126(c)(3)).

The comprehensive strategy shall directly address and give emphasis to private sector responsibilities in the efforts necessary to achieve such goal, and additionally shall specifically address how any Corporation involvement recommended in the strategy shall be expressly limited and ultimately terminate upon the termination of the strategy in the future. Such strategy, when approved, shall become the strategy of the Corporation of the national synthetic fuel production goal.

Section 126(c) requires a comprehensive strategy by which the strategy will be submitted.

■ will lie before the Congress for 90 days. After such layover period,
 ■ the joint resolution approving the strategy and the level of authoriza-
 ■ tion for Corporation activities will be introduced and referred to the
 ■ appropriate committees.

■ Sixty days after introduction and referral, committees to which the
 resolution has been referred are subject to discharge.

■ The resolution may be amended in committee but only as to the total
 ■ authorization level. No amendments providing limitations on the use
 ■ of funds either for specific projects or for certain uses are permitted.
 ■ The conferees expect that the Committee report filed with the joint
 ■ resolution could include the views of the committee as to why the
 ■ reported authorization level may be different from that recommended
 ■ by the Corporation.

■ In addition, when taken up on the floor of either House, the joint
 ■ resolution is subject to the usual amending process subject to a total
 ■ limitation on time, including debate on the resolution and all amend-
 ■ ments thereto, of 10 hours. Floor amendments may only be to the total
 ■ authorization level.

■ Only when the joint resolution is approved by both Houses in identi-
 ■ cal form and signed by the President, will the strategy be deemed
 ■ approved.

■ At any time prior to the adoption of a joint resolution by either
 ■ House, the Corporation may withdraw such strategy. Once withdrawn,
 ■ further consideration of any such joint resolution by either House
 ■ would not be in order. The conferees intend that this procedure for
 ■ withdrawal be the same as under the Executive Reorganization Act
 ■ (5 U.S.C. 902-912; P.L. 81-109, as amended by P.L. 95-17).

■ Section 126(d) makes provision for the Corporation to request a
 one-year extension for submission of the comprehensive strategy.

■ *Solicitation of Proposals (Sec. 127)*

■ The Corporation is directed, from time-to-time, to solicit proposals
 ■ for financial assistance. Notice of such solicitations must be provided in
 ■ the Federal Register and by such other means as are customarily used
 ■ to inform the public of financial assistance for major research and de-
 ■ velopment undertakings (Sec. 127(a)(1)). All proposed solicitations
 ■ must be submitted to the Advisory Committee established by Section
 123 for 30 days review and comment prior to their issuance (Sec.
 127(a)(2). Within six months from the date of enactment, Section
 127(a)(3) requires that the Corporation issue solicitations encom-
 passing both a diversity of technologies for each potential domestic
 resource as well as all of the forms of financial assistance authorized
 in subtitle D.

In addition, each solicitation must set forth general criteria, as deter-
 mined by the Board of Directors, taking into account (a) achievement
 of the national synthetic fuel production goal, and (b) the require-
 ments of Section 126(a) for a general type of synthetic fuel project
 considering three stated factors (Sec. 127(d)).

The solicitations of proposals made by the Corporation should not
 contain detailed specifications with respect to the nature of the tech-
 nology or process, nor should they unnecessarily delineate the distri-
 bution of product output from the proposed facility. Further, the

conferees intend that the solicitations shall be brief and designed to encourage innovative synthetic fuel proposals and not constrain bidders to compromise the quality of desirable proposals because of narrowly delineated requirements in such solicitations. In this way, the Conferees hope to encourage the submission of the broadest range of synfuel concepts allowing for combinations of desirable approaches while moving toward an industry infrastructure to support achievement of the national synthetic fuel production goals.

Such solicitations must be conducted in a manner so as to encourage maximum open and free competition (Sec. 127(b)).

At the request of any concern, the Board of Directors may issue a solicitation for a general type of synthetic fuel project the Board of Directors to be in accordance with the purposes of this Title and the provisions of this Part (Sec. 127(c)).

During the transition period between the date of enactment and the time the Board of Directors takes office, the Secretary of Energy on behalf of the Corporation and pursuant to the authorities granted in this Part, may make a solicitation for commercial scale high-Btu coal gas plants (Sec. 127(e)). In authorizing the Secretary to undertake such solicitation, the Committee does not intend that any future actions by the Board of Directors be prejudiced. The Committee's only intention is to assure that current efforts to commercialize high-Btu coal gasification not be delayed or held up by the act of creation of this Corporation.

The Conferees agreed to delete the requirement in the Senate bill that during the transition period between the date of enactment and the time the Corporation becomes fully operational, the Secretary of Energy on behalf of the Corporation and pursuant to the authorities granted in this part, may make a solicitation for commercial scale methanol from coal plants. By this action, the Conferees did not intend that any future actions of the Board of Directors be prejudiced with regard to technologies for the production of methanol from coal, which clearly is contained in the definitions of "synthetic fuel" and "synthetic fuel project." In the judgment of the Conferees technologies for the production of methanol from coal offer promise. The Conferees intend that the Corporation give such technologies consideration. In addition, such technology would be eligible for assistance pursuant to either Section 305 of the Defense Production Act Amendments in Part A or the Federal Non-Nuclear Energy Research and Development Act of 1978, or both.

In awarding financial assistance, Section 127(f)(1) requires the Corporation to give priority consideration to any project which would be located in a State which indicates an intention to expedite all regulatory, licensing, and related government agency activities related to such project.

The Corporation is required to consult with the Governor of any State in which any proposed Corporation construction project or joint venture project would be located with regard to the manner in which the project would be developed and regulatory licensing and related governmental activities pertaining to such project. The States shall have the opportunity to provide written response to the Corporation on all aspects of project development, licensing, and operation. (Sec. 127(g))

In the consideration of the suitability and the risk of any non-Government proposal for financial assistance or any proposal for a Federally constructed synthetic fuel project pursuant to the Authorities of Part A or for a Corporation construction project under Part B of this Title, the Conferees intend that the Corporation under Part B or the head of the designated agency under Part A shall first, consider whether an adequate supply of water for the construction and operation of the project will be available pursuant to applicable state law; second, consult with the Governor of the State in which such proposed project is located and appropriate State and local officials designated by such Governor, concerning the impacts which the proposed project, the attendant development necessitated by the project, and any potential future expansion of synthetic fuel development will have on water users in the project area; third, advise the President and the Congress on any apparent conflicts between synthetic fuel project proposals or potential future synthetic fuel development and other current or projected water uses at any time such conflicts are discovered by the Corporation or head of such designated agency or brought to its attention by a State or local official; and fourth, advise the President and the Congress on the relationship, if any, between any reported conflicts or any deficiency in water supply for a proposed synthetic fuel project and Federal policies or projects for water resources development. However, the Conferees intend that such a report shall not constitute an Executive recommendation for authorization of, or appropriations to, a Federal water resource development project or program.

Congressional Disapproval Procedure - Sec. 128

Section 128 establishes the expedited Congressional Review procedures for consideration of resolutions of disapproval of certain actions by the Corporation.

Congressional Approval Procedure - Sec. 129

Section 129 establishes the expedited Congressional Review procedures for consideration of concurrent resolutions of approval of certain actions by the Corporation.

SUBTITLE D—FINANCIAL ASSISTANCE

Authorization of Financial Assistance - Sec. 131

Section 131(a) requires financial assistance to be awarded to the qualified concern whose proposal (1) is most responsive to a solicitation for proposals and (2) is most likely to advance the purposes of this title. Whenever practicable and prudent to do so, the Corporation shall award financial assistance on the basis of competitive bids.

In accordance with such terms and conditions as the Board of Directors shall determine, Section 131(b) requires among other things that

to a qualified concern whose proposal preference being given to proposals
1 financial commitment and the
ven technological process tak-
t anticipated synthetic fuel
al assistance pursuant to

Subtitle D be awarded to "qualified concerns with the exception of the award of loan guarantees to concerns with a partial interest in a synthetic fuel project." In order to qualify, a concern must demonstrate, to the satisfaction of the Board of Directors, evidence of such concern's capability directly or by contract to undertake successful completion of the design, construction and operation of the synthetic fuel project on the terms proposed.

Within this general framework, it is required that preference be given, in decreasing priority, to the following categories of financial assistance: (1) purchase agreements, price guarantees, and loan guarantees, (2) loans, and (3) joint ventures. In providing financial assistance, the Corporation is directed to require appropriate security and collateral for the repayment to the Corporation of any fixed or contingent obligations. With the consent of the recipient, authority is provided to renew, modify and extend financial assistance.

In addition, the Corporation shall also consider, in awarding financial assistance, among other relevant factors, the following:

- (a) diversity of technologies;
- (b) the potential cost per barrel or unit of production of synthetic fuel from the proposed project;
- (c) the overall production potential of the technology, considering the potential for replication and extent of the resource, its geographic distribution and the potential end use; and
- (d) the potential of the technology for complying with applicable regulatory requirements. (Sec. 131(a)(3)).

In the event that, after a formal solicitation for competitive bids, no proposals are received or those received are unacceptable to the Board of Directors, contracts for financial assistance, may, upon notification to the Senate Committee on Energy and Natural Resources and the Speaker of the House of Representatives, be negotiated with qualified concerns upon a finding that (a) the synthetic fuel project is essential for achievement of the national synthetic fuel production goal and (b) competitive bids are not appropriate. (Sec. 127(a)(4))

All contracts or instruments of the Corporation, including a financial assistance agreements, are backed by the full faith and credit of the United States (Sec. 131(c)) and holders are protected with respect to their rights under such agreements, except as to fraud or material misrepresentation on the part of the holder (Sec. 131(d)).

Any contract for financial assistance is required to include such terms and conditions as required by the Corporation. But such contracts must specifically require the recipient of financial assistance to prepare an environmental monitoring plan acceptable to the Board of Directors. In preparing such plan, the recipient must consult with the Administrator of the Environmental Protection Agency, the Secretary of Energy and appropriate State agencies (Sec. 131(e)).

The monitoring of emissions—gaseous, liquid or solid—and the examination of waste problems, worker health issues and other research efforts associated with any synthetic fuel project receiving assistance pursuant to this Part will help to characterize and identify areas of concern and develop an information base for the mitigation of problems associated with the replication of synthetic fuel projects. The

Corporation is not expected to involve itself in the development or execution of such plans except for the necessary approval. The Conferees intend that development of the plans and actual data collection be reserved to the applicants for financial assistance after consultation with appropriate federal and state agencies.

Section 131(f) provides that, notwithstanding the provisions of the Federal Financing Bank Act of 1973 or any other provision of law (except as may be specifically provided by reference to this subsection in any Act enacted after the effective date of this part), no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed by the Corporation, or which is secured in whole or in part by financial assistance provided by the Corporation, shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency or Department of the United States, except as provided in Section 151.

Section 131(g) prohibits financial assistance to concerns which do not provide the Corporation with an application containing such information as it may require.

The Corporation is directed in providing financial assistance to give due consideration to promoting competition in the industry (Sec. 131(h)).

Subsection 131(i) requires that all applicants for and recipients of financial assistance keep such records and consent to such examinations thereof as the Corporation may require to ensure compliance with the terms and conditions upon which financial assistance is requested or provided. The subsection intends that the Corporation shall have full authority to require the keeping of whatever records it deems necessary for the proper conduct of its affairs and to safeguard the public investment. At the same time, the Conferees intend that the Corporation avoid requiring duplicative and unnecessarily burdensome recordkeeping requirements on recipients of assistance. To minimize recordkeeping burdens, the Corporation is expected to utilize to the maximum extent possible records and information which a recipient of assistance is already required to maintain for regulatory and other purposes.

The Corporation, directly or indirectly, is prohibited from providing more than 15 percent of the authorized obligation authority under Section 152—

(a) to any one synthetic fuel project; or

(b) to any one person, including such person's affiliates and subsidiaries.

For the purpose of determining compliance with this limitation, any financial assistance to a synthetic fuel project under this Part is to be allocated among the project participants in direct proportion to each person's participation in such project.

For the purpose of this provision, a corporation and all of its subsidiaries and affiliates are to be treated as one person. Indian tribes, and entities of State, local or foreign governments are also treated as persons.

Section 131(k) requires that any contract for financial assistance specify the maximum amount of liability of the Corporation under

the contract as determined in accordance with the procedure in section 152(b). Prior to the execution of such contracts the Corporation is required to notify the Secretary of the Treasury of the Corporation's intention to do so. The Secretary of Treasury is required under section 195(a)(3) to certify to the Corporation, within 15 days of receipt of the notification that the necessary unencumbered appropriations are available in the Energy Security Reserve to satisfy the obligations of the Corporation under the contract. Such certifications shall accompany the contract when executed.

When awarding financial assistance for a synthetic fuel project proposed by a concern whose rates are regulated, the Corporation is authorized to consider as a factor in any decision whether the regulatory body, or bodies, is likely to set a rate which protects the financial interests of the investors and the Corporation, and to also consider, in the case where synthetic fuels will be committed to be sold to a person whose rates for the use of such synthetic fuels are regulated, whether such regulated purchaser is likely to be issued a ratemaking decision which will protect the financial interest of the investors and the Corporation (Sec. 131(l)).

With regard to the award of price guarantees for fuel committed to be sold to a person whose rates for use of such fuels are regulated, the Corporation should consider whether future regulatory decisions will increase the financial exposure of the Corporation.

Section 131(m) requires that, for the purposes of determining the total costs of the synthetic fuel project pursuant to Sections 132 and 133 and the total costs of the synthetic fuel project module pursuant to Section 136, real and personal property or services obtained for the facility in a transaction with any person or concern, (including an affiliated company and affiliated person as defined in 15 U.S.C. 80a-2 (a)(2) and (3)) which has or will have an ownership or profits interest in the facility shall be valued at the lower of cost to the project or fair market value, disregarding any portion of such market value which is attributable to the prospect of receiving financial assistance under this Part.

The Corporation is authorized as a term and condition of any contract for financial assistance, except for loans and loan guarantees, to require, on a fair basis, that any profits from the eventual operation of a synthetic fuel project be shared. Whether or not to require profit sharing or to what degree profits would be shared should be a part of negotiations of the terms and conditions of a contract (Sec. 131(n)).

The Corporation is prohibited under Section 131(o) from awarding more than a single form of financial assistance under this Part to any synthetic fuel project unless the Board of Directors determines that multiple forms of financial assistance are required for the viability of the project, and further that the project is necessary to satisfy the purpose of this Title and the provisions of this Part.

When the Corporation awards a combination of financial assistance, such as a loan guarantee and a purchase agreement or price guarantee, to a single synthetic fuel project, the Corporation is required to insure that the recipient of financial assistance bear a reasonable degree of risk in the construction and operation of a project. Require a recipient of financial assistance to bear a reasonable degree of risk will serve

as an incentive for the eventual successful construction and operation of a synthetic fuel project. Parties solely in the position of a lender are not subject to risk sharing. The Conferees thus intend that combinations of financial assistance not be used as a mechanism to transfer a greater portion of the risk of failure to the Corporation than the minimum necessary for the proposed project to proceed (Sec. 131(o)).

Section 131(p) requires that the Corporation not award financial assistance in the form of loans pursuant to Section 132 or joint ventures pursuant to Section 136 unless the Board of Directors determines that price guarantees, purchase agreements and loan guarantees will not adequately support the construction and operation of the synthetic fuel project or will restrict the available participants for that project.

Section 131(q) requires the Corporation to impose such terms and conditions on any financial assistance under this Title (after analyzing the financing of the facility, the tax benefits which would be available to investors in the facility and any regulatory actions associated with the facility) as may be necessary to assure that any investors having an ownership or profit interest in the facility bear a substantial risk of after tax loss in the event of any default or other cancellation of the project. It is likely that several of the synthetic fuel projects of the project. It is likely that several of the synthetic fuel projects receiving financial assistance under this part will include as participants concerns which are economically regulated by one or more government agencies. For example, natural gas transmission and distribution companies and electric utilities, among other possible synthetic fuel project participants, are subject to various forms of economic regulation by Federal and State authorities. Often such regulation is located organizationally in independent or quasi-independent regulatory bodies. Such regulation also involves, in many cases, a regulatory determination of customer rates, after tax profits, rates of return on investment, and apportionment of losses, risk of losses, etc. pursuant to applicable Federal, State or local statutory authorities.

The Conferees recognize that the risk of aftertax loss by regulated concerns may be directly the subject of federal or state ratemaking or other applicable regulatory authorities. Consequently, the application by the Corporation of the "risk of aftertax loss" requirement to a regulated concern necessarily will involve allowance for and consideration of such regulation. The Conferees do not intend that this requirement bias or prejudice any existing or future ratemaking decision or other applicable regulatory action by a federal or state regulatory authority. For example, the requirement should not preclude providing financial assistance to concerns which are subject to a "cost of service" tariff, or any other tariff. Similarly, the Corporation shall not use this requirement to demand directly or by implication that an applicant obtain a particular method or type of tariff as a condition precedent to receipt of financial assistance under this part.

The regulatory process applicable to any applicant for financial assistance should remain undisturbed by the Corporation and this part.

Section 131(r) requires that the Corporation shall insure that financial assistance awarded under this Part encourages and supplements,

but does not compete with or supplant any private capital investment which otherwise would be available to a proposed synthetic fuel project on reasonable terms and conditions which would permit such project to be undertaken. This provision applies only to loans under section 132, loan guarantees under section 133, joint ventures under section 136, and to any combination of forms of financial assistance including one or more of the aforementioned. To that end, the Corporation shall establish internal procedures, standards and criteria for the timely review for compliance with such requirement of each new award of financial assistance for a specific proposed synthetic fuel project, and further the Board shall determine that any financial assistance by the Corporation for the project will not compete with or supplant such available private capital investment and that adequate financing for the project would not otherwise be available to a proposed synthetic fuel project on reasonable terms and conditions which would permit such project to be undertaken. Any determination under this subsection shall be in the judgment of the Board.

This provision is not intended to require the Corporation to do exhaustive analyses of financial markets or of the economy, but rather is intended to require the Corporation to conduct the kind of careful examination of the applicant's financial condition which would be done by a prudent lender. In making this determination, the Corporation should take into consideration whether it would constitute a prudent business judgment for the applicant to make available additional capital. In making its determinations, the Corporation should require the applicant to provide appropriate and relevant information.

The conference agreement expands the scope of the Board of Directors' consideration of the availability of financing from the private sector to include a review of the reasonableness of the terms and conditions upon which such assistance is being provided. Ultimately, it is the Board of Directors who, in their sole discretion, must make a final and independent judgment of the reasonableness of the terms and conditions of financial assistance available from the private sector, and it is not the intent of the Conferees in any way to prejudice the Board's judgment in regard to providing financial assistance to those applicants in a manner which will best achieve the purposes of the title.

Section 131(s) requires that any price guarantee pursuant to Section 134 or purchase agreement pursuant to Section 135 shall include an express provision to the effect that the price or purchase agreement shall be the subject of review and possible renegotiation, pursuant to Section 131(b)(1)(B), within ten years from the date of initial production by the project, at which point the Corporation shall specifically determine the need for continued financial assistance pursuant to such agreement.

Section 131(t) requires that (1) any specific tax credit directly associated with a synthetic fuel project; (2) any financial assistance that has been or will be provided from other federal or state agencies; and (3) the potential revenues generated by the project from the production of non-synthetic fuel products shall be taken into consideration in determining the need for financial assistance awarded pursuant to this Part.

The Conferees intend that any tax credit which inures directly to benefit of a synthetic fuel project be taken into consideration in

determining financial need. The Conferees recognize that regulated utilities involved in a synthetic fuel project may be required to pass any tax credits they receive on to their customers in the form of lower cost of service. The Conferees intend that in any such situation the Corporation will have to discount such tax credit when determining financial need.

Section 131(u)(1) authorizes the Corporation to enter into cost-sharing agreements with applicants for financial assistance to refine the design of proposed synthetic fuel projects so as to improve the accuracy of the preliminary total estimated costs upon which financial assistance in the form of loans and loan guarantees will be based. The conferees intend that this practice be used to improve project control so that costs which exceed the initial total estimated costs are minimized. In the event of a subsequent award of a loan or loan guarantee, the Corporation's share of such agreement shall be incorporated in each loan or loan guarantees when awarded. For the purpose of such cost-sharing agreements, the Corporation is authorized to award up to one percent of the preliminary total estimated cost of the proposed project, and the Corporation is to the use of no more than one-percent of the aggregate obligation authority under Section 152 for such cost-sharing agreements.

The Conferees intend that any valuations of real and personal property or services obtained for a facility in transactions specified in the subsection shall be reviewed by an independent auditor or other recognized public appraiser as part of the indicated determinations of total costs.

Loans Made by the Corporation (Sec. 132)

The Corporation is authorized to commit to or enter into loan agreements with a concern for a synthetic fuel project. The terms and conditions for a loan must be established by the Board of Directors (Sec. 31(a)). Such a loan would be limited to not more than 75 percent of the initial estimated cost of the synthetic fuel project. However, a loan also must be limited to the lesser of 49 percent of the initial total estimated project cost or not more than a minority financial position in the project, unless the Board of Directors determines that the borrower has satisfactorily demonstrated that such limits would prevent the financial viability of the proposed project and therefore additional loan assistance is necessary. (Sec. 132(a)(2))

In the event that actual costs exceed the initial total estimated costs, the Corporation is authorized to provide additional loan assistance:

(a) up to 50 percent of the difference between the revised total estimated cost as determined by the Corporation and the initial total estimated cost: *Provided*, That the total estimated revised cost does not exceed 200 percent of the initial total estimated cost; and

(b) if the revised total estimated cost exceeds 200 percent of the initial total estimated cost, up to 40 percent of the amount in excess of 200 percent of the initial total estimated cost, except that if the revised total estimated cost exceeds 250 percent of the initial total estimated cost, the Corporation shall transmit such proposed extension of the loan to the Congress. Such extensions shall be subject to disapproval by either House.

(c) The 250 percent specified in the exception shall be computed based upon the initial total estimated cost of the project adjusted to include any increase or decrease pursuant to an appropriate construction price index for the type of construction involved (Sec. 132(a)(2)). Such appropriate indices are routinely published in the *Engineering News Record*.

Each loan would be required to bear interest at a rate determined by the Corporation taking into account the needs and capacities of the recipient and the prevailing rates of interest. However, such interest shall not be less than the rate determined by the Secretary of the Treasury taking into consideration current yields on outstanding obligations of the United States. (Sec. 132(b))

Section 132(b) also specifies that unless the Corporation determines that there is a reasonable prospect of repayment or that successful completion and operation of the synthetic fuel project will have a substantial value in helping to meet the national synthetic fuel production goal, a loan under this section would be prohibited. The Conferees intend that the substantial value provision not represent a loophole, and that the Corporation weaken its "reasonable prospect of repayment" criterion as a last resort and for good cause.

The Corporation may enter into loans either directly or in cooperation or participation with banks or other lenders. Such loans can be made directly upon promissory notes or other evidence of indebtedness or by way of discount or rediscount of obligations tendered for that purpose (Sec. 132(c)).

The Board of Directors is authorized to forbear from exercising its rights under a loan agreement if (a) the borrower is not in default, (b) the public interest is better served by continuation of the project, and (c) the probable net benefit to the Corporation is greater from forbearing than from a default. However, the borrower must agree to reimburse the Corporation for such payment on terms and conditions including interest which are satisfactory to the Corporation. (Sec. 132(d)).

Section 132(e) requires that any loan shall carry a maturity date of no longer than 30 years or the useful life of the project, whichever is less.

Loan Guarantees Made by the Corporation (Sec. 133)

Section 133 authorizes the Corporation to commit to, and to guarantee, principal and interest on loans for synthetic fuel projects. The terms and conditions (including the right of subrogation) must be established by the Board of Directors (Sec. 133(a)). The Corporation may not guarantee more than 75 percent of the total project costs. In the event that the project costs exceed the initial total estimated costs, the Corporation is authorized to provide additional loan guarantee assistance as follows:

(a) up to 50 percent of the difference between the revised total estimated cost as determined by the Corporation and the initial total estimated cost: Provided, That the total estimated revised cost does not exceed 200 percent of the initial total estimated cost; and

(b) if the revised total estimated cost exceeds 200 percent of the initial total estimated cost, up to 40 percent of the amount in

excess of 200 percent of the initial total estimated cost, except that if the revised total estimated cost exceeds 250 percent of the initial total estimated cost, the Corporation shall transmit such proposed extension of the guarantee to the Congress. Such extension shall be subject to Congressional disapproval within thirty days.

(c) The 250 percent specified in the exception shall be computed based upon the initial total estimated cost of the project adjusted to include any increase or decrease pursuant to an appropriate construction price index for the type of construction involved. (Sec. 132(a)(3)). Such appropriate indices are routinely published in the *Engineering News Record*.

Such guarantees may not be terminated, cancelled or otherwise revoked except in accordance with the terms thereof.

The Corporation in reviewing the need for financial assistance pursuant to applications for loan guarantees shall consider whether the concern or concerns making such application otherwise would be viable, exercising prudent business judgment, as determined by the Board of Directors, to finance the synthetic fuel project, taking into account among other factors, the availability of debt financing under normal lending criteria based on the assets associated with the project. (Sec. 133(a)(4)).

Section 133(a)(5) provides that any guarantee made by the Corporation under this Section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof. Any loan guarantee by the Corporation shall be conclusive evidence that such guarantee complies fully with the provisions of this Part and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee. Loan guarantees may be issued to guarantee obligations of a person owning a partial interest in a synthetic fuel project (Sec. 133(a)(6)). In exercising its authority under Section 133, it is anticipated that the Board of Directors will participate in negotiations for the financing of loans sought to be guaranteed by the Corporation. The conferees expect that, in carrying out its responsibility under Section 1(b)(2) the Board of Directors will give preference to proposals which, among other criteria, represent "the least Corporation financial commitment", and insure that the rates on guaranteed loans are not excessive, taking into account the range of rates for similar loans in the private market and the risks assumed by the Corporation.

Loan guarantees, as for other forms of financial assistance, are general obligations of the United States backed by its full faith and credit. In the event that the Board of Directors determines that a borrower is unable to meet payments but is not yet in default, the Corporation may elect to pay the lender an amount not greater than the principal and interest which the borrower is obligated to pay and which the corporation has guaranteed in order to assure continuation of a project (Sec. 133(b)).

The Conferees intend that the Board establish rights of subrogation by contract. If there is a default by the borrower, the holder of the obligation should have the right to demand payment of the unpaid amount from the Corporation. Within such period as may be

specified in the guarantee or related agreements, the Corporation shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Corporation finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. However, forbearance by the holder of the obligation should not be precluded if such forbearance is agreed upon by the parties, including the Corporation.

If the Corporation makes a payment under Section 133(b), the Corporation must be subrogated to the rights of the recipient of such payment (and such subrogation must be expressly set forth in the guarantee or related agreements). The rights of the Corporation with respect to any property acquired pursuant to a guarantee or related agreement, shall be the same as the rights of the recipient of a payment or payments made by the Corporation (Sec. 133(c)).

Section 133(c) requires that loan guarantees shall have a maturity date of not more than 30 years or the useful life of a synthetic fuel project, whichever is less.

As discussed earlier (Sec. 131(f)), the Federal Financing Bank shall not be allowed to purchase obligations issued, sold, or guaranteed by the Synthetic Fuels Corporation. It is important to note, though, that any potentially defaulting loan guarantees could still be paid off immediately by the Corporation by borrowing from the Treasurer against its appropriated line of credit in the Energy Security Reserve in the Department of the Treasury.

Price Guarantees (Sec. 134)

The Corporation is authorized to commit to, or enter into, price guarantees for all or part of the production from a synthetic fuel project at a specific sales price. The Corporation may not enter into any "cost plus" arrangement or variation thereon in order to guarantee a profit to the concern. However, if the Corporation subsequently determines that the project would not otherwise be completed or continued and that the product is necessary to achieve the purposes of the Title, it may renegotiate the sales price.

In awarding price guarantees, the Corporation shall establish such specified sales price at the level which will provide the minimum subsidy determined by the Board of Directors to be necessary to provide an adequate incentive, in light of projected prices of competing fuels and the requirements for economic and financial viability of the synthetic fuel project.

The Conferees intend that the Board of Directors when prescribing terms and conditions for price guarantees, including establishment of the price set forth in the contract, shall assure that an appropriate risk will be borne by the recipient, that an appropriate level of price competition will be encouraged in the production and sale of synthetic fuel, that the price support will phase out if marketplace forces make such support unnecessary, or such other conditions which the Corporation determines would achieve the purposes of this section and this title. In the event that prevailing market prices for synthetic fuels are greater than a price guaranteed by the Corporation, the Corporation should allow the marketplace to operate.

The Conferees were concerned that the prohibition in Section 134 against price guarantees based upon a "cost-plus" arrangement or variant thereof might be construed to include "cost of service" pricing arrangements. Accordingly, the provision was clarified to provide that conventional "cost of service" pricing mechanisms shall not be deemed to be a "cost plus" arrangement or variant thereof.

A "cost plus" arrangement is prohibited because in the normal context it would guarantee an entity a negotiated fee based upon a percentage of the expenses of the project or a specified fee regardless of cost without independent restrictions. Thus, if "cost plus" contracts were permitted, there would be little if any financial discipline on the part of the recipient of financial assistance.

In contrast, cost of service pricing mechanisms, such as those used by the Federal Energy Regulatory Commission (or other regulatory bodies or those used by a concern pursuant to law) only assure the regulated company or such other concerns recovery of depreciation, actual operating expenses, taxes, interest on debt and a reasonable return on equity invested. All these expenses are subject to administrative and judicial review as specified in other law, such as that by the Federal Energy Regulatory Commission (or other regulatory bodies for concerns subject to their jurisdiction) throughout the life of the project and possible disallowance if found to be unjustified.

Purchase Guarantees (Sec. 135)

The Corporation is authorized to commit to, or enter into purchase guarantees for all or part of the production from a synthetic fuel project. The sales price specified in the purchase agreement cannot exceed the estimated prevailing market price on the date of delivery, as estimated by the Secretary of Energy, unless the Corporation determines that a higher price is necessary in order to insure the production of synthetic fuel to achieve the purposes of this Title (Sec. 135(a)).

The Corporation may also provide in the contract awarding the purchase agreement that the Corporation may, at its option, if such is consistent with the purposes of this Act, terminate a purchase agreement and pay liquidated damages.

When entering into such an agreement, the Corporation is directed to obtain assurance that the quality of the synthetic fuel meets standards for the use of such fuel and that the ordered quantities are delivered on a timely basis as well as such other assurances as may reasonably be required (Sec. 135(b)).

In addition, each such agreement must provide that the Corporation retains the right to refuse delivery upon such terms and conditions as specified in the agreement (Sec. 135(c)).

Section 135(d) authorizes the Corporation to take delivery of synthetic fuels and to, subject to Section 172, sell such fuels to any other person. Section 172 provides the Department of Defense with a right of first refusal. In the event that the Corporation accepts delivery but does not sell such fuels, they may be purchased by an appropriate Federal agency at the agency's discretion. If exercised, the Federal agency would pay the prevailing market price of the product being displaced and the Corporation would pay the difference.

The Corporation is authorized to transport and store, and to have a processed and refined, any synthetic fuels obtained pursuant to such a purchase agreement (Sec. 135(e)).

The Conferees intend that the Corporation, to the maximum extent feasible, utilize purchase agreements to obtain synthetic fuel from synthetic fuel projects in a form which can be directly substituted for conventional supplies. The Conferees thus intend that the authorities of subsection 135(e) to process and refine synthetic fuel obtained pursuant to purchase agreements be exercised as a last resort. Use of such authorities to directly or indirectly fund activities that would not otherwise qualify for financial assistance would be inconsistent with Congressional intent.

Joint Ventures (Sec. 136)

Prior to approval of the comprehensive strategy, the Corporation is authorized to undertake joint ventures for synthetic fuel project modules. The Corporation's ownership and risk capital financing may not exceed 60 percent. Synthetic fuel project modules are defined to be demonstration projects of a size smaller than a synthetic fuel project which can eventually be expanded at the same site into a full scale commercial synthetic fuel project.

In order to assure the demonstration of the maximum number of potentially viable synthetic fuel technologies from the widest variety of domestically available feedstocks, it is important that the Corporation's incentives be as flexible as possible. The Conferees intend that the Corporation attempt to limit its financial participation in synthetic fuel projects to price guarantees, purchase agreements, loan guarantees, and loans, but recognize that these incentives may be insufficient to induce private sector participation in demonstrating all of the synthetic fuel technologies which must be demonstrated if the program goals are to be realized.

The economics of producing synthetic fuel from the various feedstocks and by the various possible technologies are uncertain. In some instances full scale facilities would not be practical because of technical and economic risks.

Section 136 allows for participation by the Corporation in joint ventures of up to 60 percent equity interest, where it is determined that a joint venture is the only feasible means of attracting private sector participation on the scale necessary to "prove" a given technology, utilizing a given feedstock.

Should the venture prove successful, with the plant achieving commercial production from the module, it is contemplated that the Corporation's equity ownership would be sold to the private partner (or other entity) on terms (specified in the initial contract) which would ensure the full return of the Corporation's investment. Should the venture prove unsuccessful, however, costs would be incurred by the Corporation in proportion to its equity ownership. It is not contemplated that the Corporation's participation in the initial contract would "carryover" to a full scale commercial plant, but be restricted to a single commercial scale module for any given projects.

Section 136(e) provides that the Corporation participation in any joint venture pursuant to this section shall be limited to financial par-

participation only and shall not include any direct vote in the construction or operation of the module. Additionally, the Corporation's participation in any joint venture shall, pursuant to subsection (f), be applicable to such joint venture to insure that the Corporation's status Subsection (f) provides that the Corporation's aggregate participation in the management decisions of the joint venture as the Board of Directors determines appropriate and necessary pursuant to the Corporation's financial interests. The Corporation shall not attempt to suggest in subsection (f) that the Corporation must or shall attempt to negotiate a joint or reconstituted or management limited to the Corporation's share of financial participation in the joint venture. And in no event shall the persons in the joint venture be deemed to have denied the primary responsibility for management.

In circumstances in which the parties shall have agreed to participate in the program, and shall be jointly and severally responsible to the Board of Directors in assuring its safe completion and responsibility under the project the Corporation is authorized to take control of the project to protect its investment. In no case will the Corporation retain control of the management of a facility under this program for more than five years from the day that commercial production from the module was achieved. The Corporation would be required to find a buyer based on bids maximizing return of its investments.

Control of Assets (Sec. 137)

Section 137 imposes limits on the Corporation's acquisition of a synthetic fuel project. The Corporation may acquire and retain control only (1) through foreclosure of a security interest or pursuant to default under a financial assistance contract; or (2) pursuant to a corporation construction project under subtitle E.

Section 137(b) authorizes the Corporation to acquire control of a synthetic fuel project under specified circumstances. The authority to acquire control may be exercised only with regard to projects which have been awarded financial assistance during the first phase of the Corporation's operations, although the acquisition of control may occur at any time so long as (1) substantial progress toward the completion of the project has been made and the Board of Directors determines that the Corporation's acquisition of control is necessary to assure the commencement of operation or to prevent a termination of operation of the project, (2) the operation of the project will contribute to the achievement of the purposes of this title, (3) possible losses to the Corporation will not outweigh potential benefits resulting from the demonstration of technology, (4) financial losses to the Corporation would be greater without Corporation acquisition, and (5) in the case where Corporation financial assistance has been provided in the form of loans and loan guarantees, the Board of Directors determines that the concern is in default or immediately will default.

A determination by the Corporation to acquire control shall be made, and a written plan prepared, which shall be approved by the President and submitted to the Congress. Congressional approval shall be deemed to have occurred in the event neither House passes a resolution of disapproval within thirty days of continuous session following the submission of the plan. However, the authorities of this section

shall not be available for synthetic fuel projects which are the subject of price guarantees or purchase agreements. Moreover, completion of construction and operation of a project may not be directly undertaken by the Corporation, but may only be undertaken by the Corporation through contracts with others (Sec. 137(b)).

Section 137(c) authorizes the Corporation, as one form of operation of an acquired project, to lease a project to the concern from which it was acquired. Such an arrangement is authorized for projects for which financial assistance was received in the form of loans or loan guarantees from the Corporation and where the lease will assure production of synthetic fuels consistent with the title. A plan containing the terms and conditions of the proposed leaseback shall be approved by the President and is subject to disapproval by either House within 30 days pursuant to Section 128.

For the purpose of this section, the term "operating asset" is defined (Sec. 137(d)(1) to mean any real or personal property used in a synthetic fuel project and control to mean the power to direct the use or disposition of operating assets of the synthetic project either by direct ownership, ownership of a majority of the voting securities of the Corporation which owns or leases a synthetic fuel project, except that control will not be deemed to result from the ownership of operating assets of a synthetic fuel project which are leased to and in the possession of parties independent of the Corporation.

Subsection 137(e) provides that any Congressional review and disapproval pursuant to subsection (b) and (c) shall utilize the procedures specified in Section 128.

Subsection 137(f) provides that any control of synthetic fuel projects obtained pursuant to subsections (b) or (c) must be disposed of within not more than five years after acquisition of such control.

Unlawful Contracts (Sec. 138)

The Corporation shall be treated as if it were an agency of the United States for the purposes of Title 18, U.S. Code, Sections 431 and 432, and the exemption contained in Section 433 thereof, which prohibit contracts and agreements between agencies of the United States and Members of the Congress and provide criminal penalties for violation thereof. The effect of this section is to provide that Members of the Congress may not directly be a party to any financial assistance under this Part.

Fees (Sec. 139)

Administrative fees.—The Corporation may charge and collect fees in connection with financial assistance not to exceed 1 percent of the amount of the financial assistance. Such fees may be applied against the administrative expenses of the Corporation (Sec. 139(a)).

Loan guarantee fee.—The Corporation is directed to prescribe and collect an annual fee in connection with each loan guarantee. Such fee shall be 0.5 percent of the loan guarantee. Sums so collected shall be deposited in the Energy Security Reserve (Sec. 195(a)(1)) and set aside to be used solely to meet obligations arising from default by a recipient of financial assistance. Such sums from loan guarantee fees retained in a subaccount of the Energy Security Reserve and ed for as such.

Disposition of Securities (Sec. 140)

Section 140 requires the Corporation to dispose of as soon as practicable by public or private sale any note, bond, or other security of another party title to which is acquired by the Corporation.

SUBTITLE E—CORPORATION CONSTRUCTION PROJECTS

Corporation Construction and Contractor Operation (Sec. 141)

Subject to the limitations in section 142, sections 126(a)(1)(D) and 141(a) authorize Corporation construction projects (which would be owned by the Corporation but contractor constructed and operated) only prior to the approval of the comprehensive strategy for one-of-a-kind technologies and only after no participant could otherwise be found who would be willing to proceed under one or more of the above forms of finance.

Section 141(b) provides that the power of the Corporation with respect to Corporation construction projects shall include (1) the delivery of synthetic fuel from the project; (2) transportation, storage, processing and refining of such fuel; and (3) the sale of such fuel to any person subject to Section 172(d). The Corporation, however, is directed to utilize the private sector for such activities to the maximum extent feasible. Contracts for Corporation construction projects shall be negotiated on the basis of solicited bids and shall be expressly contingent upon the availability of sufficient funds (Sec. 141(c)).

The Corporation may contract with Federal agencies to provide the design, the construction, or management of operations of a Corporation construction project (Sec. 141(d)). If the Corporation does contract with a Federal agency for such services, such Agency must have the available experienced personnel to perform such management function.

Limitations on Corporation Construction Projects (Sec. 142)

Section 142 sets forth limitations on corporation construction projects. Prior to approval of the comprehensive strategy, up to three such projects would be authorized on the last resort basis set forth in Sections 126(a)(1)(D) and 141. No such projects would be authorized after approval of the comprehensive strategy, nor would expansion of any then existing Corporation construction projects be permitted.

Environmental, Land Use, and Siting Matters (Sec. 143)

Section 143(a) provides that a Corporation construction project or joint venture shall be subject to all Federal and non-discriminatory State and local environment, land use and siting laws to the same extent as privately sponsored synthetic fuel projects. However, nothing in the section shall be deemed to limit the powers of the Energy Mobilization Board with respect to such projects or joint ventures.

Corporation construction project contracts shall provide for monitoring of environmental and health related emissions after consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy. (Sec. 143(b)).

Project Reports (Sec. 144)

Within three years from the initial operation of each Corporation construction project, the Corporation shall publish a report indicating

among other things (a) whether the synthetic fuel product can be sold at a price competitive with imported crude oil, (b) whether the technology employed in the project can be operated on a commercial scale in compliance with applicable environmental requirements, (c) the effect on regional and local water supplies of the project and commercial operation of that particular technology, (d) the health effects on workers and other persons including any carcinogenic effects, and (e) the social and economical impacts of local communities most directly affected by such project.

Financial Records (Sec. 145)

Recipients of contracts for a Corporation construction project shall keep such records and other documents as are necessary for the purposes of audit. The Corporation and the Comptroller General of the United States shall have access to such records for the purpose of audit.

SUBTITLE F—CAPITALIZATION AND FINANCE

Obligations of the Corporation (Sec. 151)

Subject to appropriations pursuant to Section 195, the Corporation is authorized to issue to the Secretary of Treasury (who shall purchase and retain) any note or other obligations of the Corporation in the aggregate amount of \$20,000,000,000 plus such sums as are authorized in the resolution referred to in Section 126 less such sums (a) as are appropriated and obligated for the purpose of carrying out Section 305 of the Defense Production Act before the date determined under Section 305(k) (1) of said Act up to a maximum of \$3,000,000,000, and (b) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-nuclear Energy Research and Development Act of 1974 (P.L. 93-577, 42 U.S.C. 5901), up to a maximum of \$2,208,000,000 (Sec. 151(a) (1)).

Such initial aggregate principal amounts shall become available to the Corporation upon the date of enactment of this Title and the additional amounts upon satisfying the requirements of Section 126 for approval of a comprehensive strategy (Sec. 151(a) (2)). Such notes and other obligations to the Secretary of Treasury shall not be issued prior to consultation by the Corporation with the Secretary of the Treasury. (Sec. 151 (b)).

Limitations On Total Amount Of Obligational Authority (Sec. 152)

Subject to the limitations of Section 151, the Corporation may not incur obligations or make commitments, including administrative expenses and operating expenses, in excess of \$20,000,000,000, plus such sums as are authorized in the resolution referred to in Section 126 less such sums (a) as are appropriated and obligated for the purpose of carrying out Section 305 of the Defense Production Act before the date determined under Section 305(k) (1) of said Act, up to a maximum of \$3,000,000,000 and (b) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-nuclear Energy Research and Development Act of 1974 (P.L. 93-577, 42 U.S.C. 5901) up to a maximum of \$2,208,000,000. However, for the approval of a comprehensive strategy pursuant to Section 126, such obligations shall not exceed \$20,000,000,000 in the aggregate.

In order to calculate the extent of the Corporation's obligations subject to these limits: loans by the Corporation shall be counted at the initial face value of the loan plus such amounts as are subsequently obligated to cover cost-overruns (Sec. 132(a)(3)); loan guarantees shall be valued at the initial face value of the loan guarantee plus such amounts as are subsequently obligated to cover cost over-runs (Sec. 133(a)(4)); and price guarantees and purchase agreements shall be valued as of the date of each such contract based upon the Corporation's estimate of its total potential liability under such contract. Corporation construction projects and joint ventures shall be valued at the current estimated cost (Sec. 152(b)). Any increase in the liability of the Corporation due to any amendment or modification of a contract also shall be counted. It is the intention that all obligations of the Corporation be counted against the obligation authority.

Section 152(a) provides that commitments of the Corporation to provide financial assistance which are nullified or voided shall not be considered in the aggregate for the purpose of subsection (a).

Budget Treatment (Sec. 153)

When the Secretary of the Treasury upon a requisition of funds from the Corporation transfers such funds to the Corporation, the incurred obligations and outlays shall be included in the total of the budget of the United States Government. However, since the Corporation is an independent entity, the receipts and the disbursement of the Corporation although presented for the information of the public in the annual budget of the United States Government shall not be included in the totals of the budget. Thus the transactions between the Corporation and the Secretary of the Treasury will be on budget. The transactions between the Corporation and the recipients will be off budget. When the Corporation needs funds to provide financial assistance, it will borrow from the Secretary of the Treasury and such transaction will be reflected as an outlay in the Federal budget.

Receipts of the Corporation (Sec. 154)

Subject to the limitations of Section 152, monies received by the Corporation from other than annual loan guarantee fees (Sec. 139(b)) and notes and other obligations issued to the Secretary of the Treasury (Sec. 151), are to be used to offset transactions which otherwise will be reflected as outlays in the Federal budget. Such monies shall be used in the following order of priority: first, to defray administrative expenses; second, to provide financial assistance; and, third, to redeem and retire any notes or other obligations issued by the Corporation to the Secretary of the Treasury (Sec. 154(a)).

Any monies not otherwise employed may be either deposited with the Treasury of the United States subject to withdrawal by the Corporation or deposited in any Federal Reserve bank or deposited in a Federally insured interest bearing account subject to withdrawal (Sec. 154(b)).

In the event that moneys of the Corporation, including monies received pursuant to Sections 139(b) and 151 exceed the limitation set forth in Section 152, such surplus shall be deposited as non-interest-bearing receipts to the General Fund of the Treasury of the United States (Sec. 154(c)). The Corporation is required to submit a statement of

ment to the Secretary of the Treasury detailing all receipts during any fiscal quarter within 10 days of the end of such fiscal quarter (Sec. 154(d)).

Tax Status (Sec. 155)

Section 155(a) provides that the Corporation, its franchise, capital, reserve, surplus, income and intangible property shall be exempt from all Federal, State and local taxes, except that (1) any real property owned in fee by the Corporation shall be subject to nondiscriminatory State and local taxes to the same extent as other similarly situated and used property; and (2) its employees shall be subject to any non-discriminatory payroll and employment tax levied for the purpose of employee benefits and to the same extent as any privately owned corporation. In addition, the Corporation construction projects shall be subject to any non-discriminatory tax levied or imposed by any State, county, municipality, or local taxing authority on those assets of the Corporation construction project pursuant to Subtitle E, including only

- (i) the extraction or severance of minerals owned or leased by the Corporation, and
- (ii) on the purchase or lease of tangible personal property.

Subsection 155(b)

Section 155(b) establishes debt obligations the Federal tax policy to be followed for Federal taxation of gross income from State and local bonds, which are guaranteed by the Corporation pursuant to Section 133 or which are secured by financial assistance from the Corporation pursuant to Subtitle D during Phase I. The interest paid on any such State or local loan or debt obligations issued after the enactment of this Title is to be included in the gross income of obligation purchasers to the extent that such obligations are not supported by the full faith and credit as a general obligation of the issuer. Because it is anticipated that the taxation of this interest will impose additional costs on issuers than would otherwise be paid in connection with tax-exempt issuances, the Secretary of the Treasury is authorized to determine, and the Corporation is authorized to pay an interest differential payment to issuers for the purpose of compensation for these increased costs incurred as the consequence of taxable status of interest on the obligations. In calculating the amount of the payment which may be made respecting each specific issue of obligation, the Secretary of the Treasury shall take into account the interest which would have been paid if the obligations were issued as tax exempt obligations, and the interest rate actually paid on the taxable obligations.

A price support commitment from the Corporation may be used for for a project financed tax exempt bond if, but only if, there is no pledge of the price support commitment as security for the bonds. It is the intention of the Conference Committee that a bond be considered secured by a price support and thus taxable if the bondholders are given a pledge of the price support payments which would entitle the bondholders to receive the price support payments prior to any other creditors of the owners and/or operators of the facility subject to the price support payments. Where bondholders have rights

to the price support payments only as general creditors of the owners or operators of the facility. the Conference Committee does not intend that such bonds be deemed to be "otherwise secured" and thus taxable under Section 155(b).

In order that this interest differential payment authority shall not have the effect of encouraging applicants to seek project financing through State and local governments or agencies, the Conferees intend that the Corporation will exercise this payment authority only where there are clear public benefits to be derived from a project in excess of the benefits which would be derived if the payment were not made. The Conferees do not expect the Corporation to make extensive use of this payment provision. Nor is it expected that the full amount of the interest differential will be paid in all cases. Further, the Conferees direct the Corporation to assure in each instance that the entire value of the payment will be used to reduce the debt service cost of the project.

SUBTITLE G—UNLAWFUL ACTS, PENALTIES AND SUITS AGAINST THE CORPORATION

False Statements (Sec. 161)

Whoever makes any statement, knowing or having reason to believe it to be false, in order to obtain financial assistance or anything of value under this Part shall be punishable by a fine of not more than \$5,000 or imprisonment for not more than two years, or both (Sec. 161).

Forgery (Sec. 162)

Whoever is guilty of forgery shall be punished by a fine or not more than \$10,000 or by imprisonment for not more than five years, or both (Sec. 162).

Misappropriation of Funds and Unauthorized Activities (Sec. 163)

Any person connected in any capacity with the Corporation who is found to be guilty of misappropriation of funds, making false entry in any book with intent to defraud, providing unauthorized information concerning future plans of the Corporation, or who having such knowledge invests or speculates in the securities and property of any company receiving financial assistance from the Corporation, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both. With respect to this section, the Corporation is authorized to obtain injunctive relief against the threatened misuse of information (Sec. 163(a)).

Whoever falsely assumes or pretends to be a Director, officer or employee acting under authority of the Corporation, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined not more than \$1,000 or imprisoned not more than three years, or both. (Sec. 163(b)).

Conspiracy (Sec. 164)

If two or more persons conspire to accomplish any of the acts made unlawful by Section 161, 162, or 163 each such person shall be subject upon conviction to the same fine or imprisonment as is applicable in the case of conviction for such acts themselves (Sec. 164).

Infringement on Name (Sec. 165)

The words "United States Synthetic Fuels Corporation" may not be used by any person in any manner which is likely to mislead or deceive (Sec. 165(a)). The Corporation may avail itself of relief, both at law and in equity; to remedy the misuse, or threatened misuse, of its name under this section. A violation of this restriction also may be enjoined by the Corporation. (Sec. 165(b)).

Additional Penalties (Sec. 166)

In addition to any other penalties provided in the subtitle, the Corporation is authorized to bring an action to cover damages for any losses suffered by the Corporation as well as for any profit or gain acquired by the defendant as a result of the conduct constituting the offense (Sec. 166).

Suits By The Attorney General (Sec. 167)

Section 167 authorizes the Attorney General of the United States or the Comptroller General of the United States to sue the Corporation or any other person to prevent acts of omission or commission in violation of the legislation. The section creates a public cause of action, maintainable by the Attorney General or the Comptroller General, to enforce the duties and responsibilities imposed by the legislation. The Conferees do not intend that mandamus actions would lie against the Attorney General of the Comptroller General to compel action under Section 167(a). The provision was patterned after a similar statutory authorization providing for suits by the Attorney General to enforce legal obligations of the Communications Satellite Corporation under the provisions of 47 U.S. Code 743 and the National Railroad Passenger Corporation (Amtrak) under the provisions of 45 U.S. Code 547.

The need for such an authorization arises out of the unique character and status of the Corporation and is intended to provide an effective mechanism of oversight to assure compliance by the Corporation with the legal obligations imposed upon it.

The authority provided to the Attorney General is not intended to be exclusive or in derogation of enforcement authorities existing in other Federal agencies under other Federal law.

Civil Actions Against the Corporation (Sec. 168)

The United States District Court shall have original jurisdiction for all civil actions against the Corporation. The section does not bar actions by or against the Corporation in state courts. The Conferees intend, however, that actions brought against the Corporation in state courts may be removed to Federal courts pursuant to Title 28, United States Code.

The Corporation is to be regarded as a Federal agency for the purposes of the Federal Tort Claims Act.

The liability of the Corporation for claims arising out of any contract is limited to valid claims based upon a written contract properly executed by the Corporation.

With regard to all legal claims against the Corporation, the liability of the Corporation is limited to the actual value of the assets of the Corporation, and any judgment or compromised claim against the Corporation shall be paid from its funds.

SUBTITLE B—GENERAL PROVISIONS

General Powers (Sec. 171)

Section 171(a) provides the Corporation with general powers, including the ability to adopt, alter and rescind bylaws; to adopt and alter a corporate seal; to make agreements and contracts, except that financial assistance contracts are authorized only to the extent expressly provided for; to lease, purchase, accept gifts and donations, and otherwise to own, hold and improve property; to sue and be sued subject to Section 166; to represent itself or to contract for representation (except actions cognizable under the Federal Tort Claims Act (28 U.S.C. 2672 et seq.)) in which actions it will be represented by the Attorney General; to select, employ and fix the compensation of officers, employees, attorneys and agents; to make provision for, and designate such committees and functions thereof as the Board deems appropriate; to indemnify directors, and officers of the Corporation; to determine and prescribe the manner in which obligations of the Corporation shall be incurred; to obtain the services and fix the compensation of experts; to use the United States mail on the same terms and conditions as the Executive Departments of the United States Government; and to exercise all of the lawful powers necessary or reasonably related to the establishment of the Corporation and to carry out the provisions of this Part and the exercise of its powers, purposes, functions, duties and authorized activities.

The foregoing powers may only be exercised in connection with administrative activities, financial assistance, and Corporation construction projects (Sec. 171(b)). And, notwithstanding any other provision of law, the Corporation shall have no legal authority, power, or purpose pursuant to this Part or any other law to engage in any other activities of a business, commercial, financial, or investment nature or perform any other governmental function; and any violation of this subsection shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than 10 years or both; additional penalties pursuant to Section 166; and relief pursuant to Section 167.

Eminent Domain (Sec. 171(c)): This provision authorizes the Corporation to exercise the Federal power of eminent domain in connection with Corporation construction projects for certain limited purposes. The Corporation may acquire real property, including property owned by a State or local political subdivision, Indian tribe, and private parties. The use of the eminent domain authority is limited to property (1) when it is necessary to provide access to the site of a Corporation construction project for site-related transportation, power transmission, and other services, and (2) when it is necessary to construct a pipeline to transport synthetic fuel from a Corporation construction project to the nearest pipeline.

However, eminent domain may not be used to acquire the project site, or property for a coal slurry pipeline, except within the immediate vicinity of the site of the project.

Prior to exercising the power of eminent domain, the Board of Directors shall make a finding that the property is necessary for the

Corporation construction project and that other reasonable property is not available. These findings shall not be reviewable in any fashion or by any court.

Coordination With Other Federal Entities (Sec. 172)

Prior to awarding, or making any commitment to award, financial assistance, the Corporation may seek the advice and recommendations of or information maintained by any Federal agency in order to assist the Corporation in making determinations, related to awarding financial assistance for synthetic fuel projects. Agencies are required to provide the Corporation, to the extent permitted by law, with such information within 30 days of the request provided that the Corporation shall agree to receive any data which comprises a trade secret or confidential or proprietary nature on the same terms of confidentiality agreed to by the agency. 18 U.S.C. 1905 dealing with restrictions on disclosure of proprietary information by Federal employees shall apply to employees of the Corporation as if they were employees of a Federal agency. (Sec. 172(a)).

The Corporation and the Secretary of Energy are authorized and directed, in accordance with applicable law, to exchange technical information relating to synthetic fuel development. (Sec. 172(c)).

Patents (Sec. 173)

Section 173(a) authorizes the Board of Directors, at its discretion, to require that title to the patents for inventions arising out of projects assisted through loans, loan guarantees, and joint ventures be vested in the Corporation and that the Corporation shall have a right to license the patent on a non-exclusive basis. This provision is intended to provide the Corporation with the flexibility, in the case of loans, loan guarantees and joint ventures, to negotiate title to patents as part of the terms and conditions of a contract for financial assistance so as to achieve the purposes of this Title.

The Corporation is authorized to grant non-exclusive licenses to the patent for any invention the title to which is vested in the Corporation. Exclusive or partially exclusive licenses are authorized only on the basis of competitive bids and following an opportunity for a hearing and only when, in the judgment of the Board, such a restricted license is necessary to assure substantial utilization of such invention within a reasonable time (Sec. 173(b)). In the event that an exclusive or partially exclusive license is issued, it shall contain such terms and conditions as necessary to protect the interests of the United States and the general public. Such terms and conditions shall contain provision for the Corporation, at any time after two years after granting an exclusive or partially exclusive license, to terminate such license if (A) it has applied, within a reasonable time to the commercialization of domestic resources or (B) steps have not been taken as necessary to assure substantial utilization of such invention within a reasonable time (Sec. 173(c)).

Loan agreements and loan guarantee agreements must include such terms and conditions as are necessary with respect to patents to protect the interests of the Corporation in the case of default. The agreements provide that all necessary patents, technology and other proprietary rights shall be available to the Corporation or its designee to com-

plete and operate any such defaulting project, without the interference of any blocking patents or background trade secrets.

Upon termination and liquidation of the Corporation, all patents, technology, and proprietary rights vested in the Corporation as a result of default or pursuant to subsection 173(a) shall be transferred to the Secretary of Energy for administration.

Any contracts entered into by the Corporation for corporation construction projects will be the subject of Section 9, subsections (a) through (m) of the Federal Non-Nuclear Energy Research and Development Act of 1974, with the Corporation acting in the place of the Secretary of Energy in implementing the Act. The conferees intend that such implementation shall be consistent with the policies developed by DOE and predecessor agencies under Section 9.

The United States Government shall have a royalty free non-exclusive license to any patent in which the Corporation owns title or reserves a license pursuant to this section.

Small and Disadvantaged Business Utilization (Sec. 174)

Section 174 provides that the Corporation shall require the recipient of any financial assistance to provide fair and reasonable participation by small and disadvantaged businesses, and the Corporation shall do the same in the case of Corporation construction projects pursuant to Subtitle E.

Relationship to Other Laws (Sec. 175)

No Federal law shall apply to the Corporation as if it were an agency or instrumentality of the United States, except as expressly provided in this Part. (Sec. 175(a)).

National Environmental Policy Act: Section 175(b) provides that no action of the Corporation, except for the construction and operation of Corporation construction projects, shall be deemed to be a "major Federal action significantly affecting the quality of the human environment" for the purposes of the National Environmental Policy Act.

With respect to Corporation construction projects, the Corporation shall be deemed to be a Federal agency for the purposes of NEPA. The Corporation itself would be required to prepare an environmental impact statement for a Corporation construction project. The Corporation also, as a Federal agency for such project, shall be subject to the Council on Environmental Quality guidelines and could request the Council on Environmental Quality to designate it or another agency as the lead agency in order to expedite the preparation of an environmental impact statement at the earliest possible time.

Davis-Bacon (Sec. 175(c)): The Davis-Bacon Act and Service Contracts Act shall apply to the Corporation and any project assisted by any loan or loan guarantee awarded by the Corporation and any joint venture as though the Corporation were an agency of the United States.

Securities Laws (175(d)).—For purposes of the securities laws of the United States as defined in Section 21(g) of the Securities Exchange Act of 1934, (15 U.S.C. 78u (g)), the Corporation shall be deemed to be an agency or instrumentality of the United States. This provision gives the Corporation the same legal status as instrumentalities of the United States for the purposes of all federal securities

laws. Thus, the Corporation will enjoy all benefits, exemptions, and limitations, and will be responsible for any duties or obligations, imposed on Federal agencies or instrumentalities of the United States under these securities laws.

Anti-Trust Laws (Sec. 175(e)).—The antitrust laws of the United States shall apply to the Corporation as if it were an agency of the United States. Section 175(d) is not intended to confer or imply any immunity from the antitrust laws. It is simply designed to subject the Corporation's governmental and commercial activities to those laws to the same extent as any other Federal agency.

Allocation and Price Regulation.—In dropping the Senate provision regarding the preemption of Federal and State allocations and pricing laws, the conferees take cognizance of the fact that synthetic fuel produced by synthetic fuel projects are presently exempt from regulations under the Emergency Petroleum Allocation Act, which expires on September 30, 1981. The conferees intend that synthetic fuel not be subject to price controls and that pricing policy regarding synthetic fuels track present law as set forth in the Natural Gas Act and the Natural Gas Policy Act.

Government Corporation Act (Sec. 175(f)).—Section 175(f) makes the Government Corporation Act inapplicable to this Corporation.

Subsection 175(g) provides that except to the extent expressly provided in this part the Corporation shall not be deemed to be an agency or instrumentality of the United States.

Subsection 175(h).—The provisions of the Longshoremen's and Harbor Worker's Compensation Act will cover employees of the Corporation.

Energy Mobilization Board (Sec. 175(i)).—Nothing in this Part shall be deemed to limit the powers of the Energy Mobilization Board with respect to synthetic fuel projects receiving financial assistance or Corporation construction projects.

Fuel Use Act.—Section 175(j) establishes the relationship between the requirements of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), Public Law 95-620 (1978), and the purposes of this Part to foster the development of synthetic fuels production.

Among other purposes, the FUA undertook to "encourage and foster the greater use of coal and other alternate fuels, in lieu of natural gas and petroleum, as a primary energy source." In generally requiring under certain circumstances the conversion to fuels other than petroleum and natural gas, the FUA recognized the future potential offered by synthetic fuels. Under Section 211(b) of FUA, the Secretary of Energy was authorized to issue temporary exemptions from prohibitions against the use of petroleum and natural gas by certain powerplants and industrial installations which would undertake eventual compliance with FUA requirements through the use of synthetic fuels.

The need to clearly reconcile the provisions of FUA and the purposes of this Part arises out of the desire to assure that the synthetic fuels exemption under FUA is used effectively and in conjunction with this Part.

This provision would therefore permit those subject to FUA to claim themselves of exemptions under Section 211 of FUA if they

can demonstrate the existence of a legally valid agreement for the future delivery of sufficient quantities of synthetic fuels to be used at facilities for which the exemption is sought. Such synthetic fuels must be produced by a concern receiving a loan, loan guarantee, purchase agreement or price guarantee pursuant to this title, and the agreement for the delivery of such fuels must provide for initial deliveries of fuel within the time periods establishing the length of exemptions to FUA requirements under Section 211(e) of FUA.

Where temporary exemptions based upon the future use of synthetic fuels under Section 211(b) of the FUA are granted on the basis of synthetic fuel deliveries produced with financial assistance provided under this title, an extension or renewal of the time period for compliance under Sections 211(e) (1) or 211(e) (2) (B) of the FUA may be granted at the same time the original exemption is granted or at any time thereafter.

The filing of evidence with the Secretary of Energy documenting the existence of a legally valid agreement for the future delivery of synthetic fuels produced with financial assistance provided under this Part is to be deemed to discharge the obligations under Section 214(b) of FUA to file and maintain an acceptable compliance plan.

Severability (Sec. 176)

Section 176 is a general severability clause providing that if any provision of this part shall be deemed to be invalid, the remainder of the part or the application of such provision to other circumstances shall not be affected thereby.

Fiscal Year Audits and Reports (Sec. 176)

The fiscal year of the Corporation shall coincide with the fiscal year of the United States Government (Sec. 176(a)).

The Corporation is required to retain a firm or firms of recognized public accountants to prepare annual audits. The General Accounting Office is authorized to conduct such audits of the accounts of the Corporation and to report upon the same to the Congress as the GAO shall deem necessary or as the Congress may request, but not less than every three years. However, the authority of the General Accounting Office to conduct audits does not include any authority to control the financial activities of the Corporation. All books, accounts, financial records, etc., of the Corporation shall be available to persons conducting audits (Sec. 176(b)).

Quarterly Reports.—The Corporation is directed to submit quarterly reports to the Congress and the President which will state the aggregate sums then outstanding or committed for financial assistance and for corporation construction projects together with a summary of any financial assistance retired or any synthetic fuel projects liquidated by the Corporation. The report is to contain a listing of the concerns receiving financial assistance involved in Corporation construction projects. The quarterly report which first notes an expenditure or commitment to a concern or synthetic fuel project shall contain a brief description of the factors considered by the Corporation in making the judgment of the factors considered by the Corporation in making the judgment to enter into the commitment. The report is to contain financial statements prepared in accordance with generally

accepted accounting principles and shall also contain the compensation of persons employed or under contract by the Corporation at salary rates exceeding \$2,500 per month.

Annual Reports (Sec. 176(d)).—The Corporation shall submit an annual report containing in addition to the information required in the quarterly report a general description of the annual operations, a specific description of each project in which the Corporation is involved, a status report, and an evaluation of the contribution which the project has made, and is suspected to make in fulfilling the purposes of this Title. The annual report shall describe the progress made toward meeting the objectives and the goal of the Title and contains specific recommendations on what actions the Congress could take in order to facilitate the work of the Corporation. The Conferees intend that such annual reports contain sufficient information to facilitate oversight by the appropriate Congressional committees.

Liquidation Plan (Sec. 176(e)).—On or before September 30, 1990, the Corporation is required to submit to the Congress and the President a report evaluating the overall impact made by the Corporation and describing the status of each then current project. The report also shall contain a liquidation plan describing how each project and every substantial asset or liability of the Corporation will be liquidated. Each annual report thereafter will describe the progress made in effecting the liquidation plan.

Water Rights (Sec. 178).

This section provides that nothing in this part shall affect the jurisdiction of States or the Federal government over water, affect any interstate compact, or confer on any non-Federal entity the ability to exercise any Federal right to water. No project constructed pursuant to the authorities of this part shall be considered to be a Federal project for purposes of the application for or an assignment of water rights.

Western Hemisphere Projects (Sec. 179).

Prior to approval of the comprehensive strategy, up to two synthetic fuel projects located in the Western Hemisphere outside of the United States may receive financial assistance of (1) a class of resource will be utilized that is located in the United States but will not be subject to timely commercial production in the United States, even if the Corporation provided financial assistance; (2) the project will receive financial assistance from the host-country; (3) the synthetic fuel produced will be available to users in the United States in equitable quantities considering the form of the financial assistance; and (4) all technology patents, and trade secrets developed in connection with the project shall be available to citizens of the United States through the Corporation or through licensing at reasonable costs for use in the United States (Sec. 179(a)).

Section 179 provides that before awarding any financial assistance the Corporation must submit its proposed western hemisphere projects to the Congress which shall consider the proposal subject to one-House disapproval pursuant to section 128. If neither House disapproves the proposed project then the Corporation may award the financial assistance.

SECTION 181. DISPOSITION OF ASSETS.

(a) General. The Corporation shall have the right to sell, lease, convey, or otherwise dispose of any of its assets, including real estate, personal property, and any interest in any asset, in whole or in part, and to execute any instrument necessary to carry out such disposition.

(b) Approval. Any disposition of assets of the Corporation shall be subject to the approval of the Board of Directors, and, if the disposition involves the sale of assets having a value in excess of \$100,000, the approval of the Board of Directors shall be subject to the approval of the Committee on Energy and Natural Resources of the House of Representatives.

(c) Terms and Conditions. The Corporation shall establish such terms and conditions as are necessary to maximize the financial return to the Corporation.

(d) Disposition of Assets. The Corporation shall have the right to sell, lease, convey, or otherwise dispose of any of its assets, including real estate, personal property, and any interest in any asset, in whole or in part, and to execute any instrument necessary to carry out such disposition.

(e) Approval. Any disposition of assets of the Corporation shall be subject to the approval of the Board of Directors, and, if the disposition involves the sale of assets having a value in excess of \$100,000, the approval of the Board of Directors shall be subject to the approval of the Committee on Energy and Natural Resources of the House of Representatives.

(f) Terms and Conditions. The Corporation shall establish such terms and conditions as are necessary to maximize the financial return to the Corporation.

With regard to disposal of assets, the Corporation is required to file the proposed disposition of assets with the Committee on Energy and Natural Resources of the House of Representatives at least thirty days prior to such disposal.

The Corporation shall make every reasonable effort to recover the financial investment in such assets, to assure competition within the industry to which the assets are sold; and assure that such assets will be productively utilized and, if possible, continued in operation (Sec. 181(c)). Where such assets constitute other than a synthetic fuel project, or portion thereof, or a corporation construction project, the Corporation shall establish such terms and conditions as are necessary to maximize the financial return to the Corporation (Sec. 181(d)).

Other Assets (Sec. 182)

The Corporation is authorized to sell consistent with the requirements of the Federal Property and Administrative Services Act (but not directly subject to such Act as a Federal agency), or transfer to any Federal agency, any portion or all of the other assets of the Corporation other than tangible assets covered by Section 181, as the Corporation determines to be in its best interest.

SUBTITLE J—TERMINATION OF CORPORATION

Date of Termination (Sec. 191)

Notwithstanding any other provision of this Title, the Corporation may make no new commitments of financial assistance under subtitle D after September 30, 1992 (Sec. 191(a)).

The Corporation shall terminate on September 30, 1997, unless the President on recommendation of the Board of Directors by Executive Order, terminates the Corporation at an earlier date; however, in no event may he do so prior to September 30, 1992 (Sec. 191(b)),

Termination of Corporation's Affairs (Sec. 192)

Section 192 provides for the winding up of the Corporation's affairs and requires after September 30, 1992, that the Board of Directors shall diligently commence all practical steps to achieve an orderly termination of the Corporation's affairs including the disposal of the tangible assets (pursuant to Section 181) and the disposal of other assets (pursuant to Section 182).

After termination any contract or obligation for financial assistance is to be administered in accordance with Section 193, which transfers powers of the Corporation to the Department of the Treasury.

Transfer of Powers to the Department of the Treasury (Sec. 193)

Section 193 provides that if, on the date of termination, the winding up of the Corporation's affairs has not been completed, the duty of completing such winding up shall be transferred to the Secretary of the Treasury who for such purposes shall succeed to all powers, duties, rights and obligations of the Corporation. The Secretary of the Treasury may assign such duties to any officer or officers of the United States in the Treasury Department (Sec. 193(a)).

When the Secretary of the Treasury finds that the liquidation of remaining assets will no longer be advantageous to the United States and that all legal obligations have been provided for, he shall pay into the Treasury as miscellaneous receipts the unused balance of the monies belonging to the Corporation and shall make a final report of the Corporation to the Congress. At such time, the Corporation shall be deemed to have been dissolved.

SUBTITLE K—DEPARTMENT OF THE TREASURY

Authorization (Sec. 195)

Section 195 authorizes an appropriation of \$20,000,000,000 plus such sums as are authorized plus such sums as are authorized in the resolution referred to in Section 126 less such sums (a) as are appropriated and obligated for the purpose of carrying out Section 305 of the Defense Production Act before the date determined under Section 305(k)(1) of said Act up to a maximum of \$3,000,000,000, and (b) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974 (P.L. 93-577, 52 U.S.C. 5901), up to a maximum of \$2,208,000,000. Such monies shall be deposited within the "Energy Security Reserve" established in the Treasury of the United States by the Department of the Interior and Related Agen-

cies Appropriation Act, 1980, which account, and the appropriations therefor, shall be available to the Secretary for the purpose of carrying out the purposes of this Title.

On the basis of notification by the Corporation to the Secretary of the Treasury of financial assistance, consistent with the requirements of Section 152(b), the Secretary of the Treasury shall reserve within the Energy Security Reserve an amount equal to the maximum liability in the contract. The Secretary of the Treasury, within 15 calendar days of the notification of the Corporation, must certify that the funds have been reserved within the Energy Security Reserve.

The Secretary of the Treasury is authorized to utilize both general revenues and borrowing authority under the Second Liberty Bond Act in order to finance the purchase of obligations of the Corporation. (Sec. 195(c)).

TITLE II—BIOMASS ENERGY AND ALCOHOL FUELS

Short Title

Section 201 provides that this title may be cited as the "Biomass Energy and Alcohol Fuels Act of 1980".

Findings

Section 202 contains Congressional findings as follows:

- (1) United States dependence on imported petroleum and natural gas must be reduced by all economically and environmentally feasible means, including the use of biomass energy sources; and
- (2) a national program for increased production and use of biomass energy that does not impair the Nation's ability to produce food and fiber on a sustainable basis for domestic and export use must be formulated and implemented within a multiple-use framework.

Definitions

Section 203 defines certain terms used in this title as follows:

(1) the term "alcohol" means methanol, ethanol and any other alcohol produced from biomass which is suitable for use by itself or in combination with other substances as a fuel, or as a substitute for petroleum or petrochemical feedstocks in nonfuel applications. The term does not include alcohol for beverage purposes.

(2) the term "biomass" means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, animal wastes, municipal wastes, and aquatic plants. For purposes of subtitle A, such term does not include municipal wastes since financial incentives for municipal waste energy projects are provided for in subtitle B. For purposes of subtitle C, which provides for USDA research and extension activities, such term does not include municipal wastes or aquatic plants.

Wood and wood wastes and residues means forest products derived from trees after they are cut, trees not harvested for forest products, portions of trees such as roots, limbs, tops and stems, dead, dying and down trees, and wastes and residues of timber harvesting and processing such as bark, sawdust, and other wastes and residues.

(3) the term "biomass fuel" means any gaseous, liquid, or solid fuel produced by conversion of biomass, including fuels such as alcohol, pyrolytic products, char, densified wood and methane and other gases.

(4) the term "biomass energy" means—

(A) biomass fuel; or

(B) the energy or steam derived from the combustion of biomass for the generation of electricity, mechanical power or industrial process heat.

(5) the term "biomass energy project" means any facility or portion of a facility located in the United States which is primarily for the production of biomass fuel and byproducts, or the combustion of biomass for the purposes of generating industrial process heat, mechanical power, or electricity (including cogeneration). The term does not include machines which only alter the size or shape of units of biomass.

(6) the term "Btu" means British thermal unit.

(7) the term "cogeneration" means the combined generation by any facility of both (A) electrical or mechanical power, and (B) steam or other forms of useful energy (such as heat) which are used for industrial or commercial applications including heating or cooling; such term includes district heating.

(8) the term "cooperative" means any agricultural association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j). The Conferees intend that the term "farmers" as used in section 15(a) of that Act means producers of agricultural commodities and other agricultural products. Such producers include, among others, ranchers, dairymen, planters, and nut and fruit growers.

(9) the term "construction" means (A) the construction of any biomass energy project; (B) the acquisition of any facility which has not been operated as a biomass energy project; (C) the conversion of any facility which has not been operated as a biomass energy project to a biomass energy project; or (D) the expansion or improvement of any biomass energy project to the extent such expansion or improvement increases the capacity or efficiency of that facility to produce biomass energy.

Such term includes (1) the acquisition of equipment and machinery for use in or at the site of a biomass energy project; and (2) the acquisition of land and improvements thereon for the construction, expansion, or improvement of a biomass energy project, or the conversion of a facility to such a project to the extent such expansion, improvement or conversion is related to the production of biomass energy. Such term also includes capital costs necessary to meet environmental standards.

Such term does not include the acquisition of any facility which was operated as a biomass energy project before the acquisition. The Conferees do not intend that this provision discourage the providing of financial assistance for the conversion or expansion of idle distilling capacity. Construction costs eligible for assistance with respect to a facility or a portion of a facility which produces biomass energy other than biomass fuel, include only costs related to constructing or converting boilers, on-site machinery and handling equipment and other equipment, which is necessary for the use of biomass as a fuel. With respect to projects producing biomass fuel and byproducts, such term may also include, consistent with section 217(a)(6), portions of such facility related to the production of such byproducts.

(10) the term "Federal agency" means any Executive agency, as defined in section 105 of title 5, United States Code.

(11) the term "financial assistance" means loans, loan guarantees, price guarantees, or purchase agreements, or any combination of such

forms of financial assistance. As used in this term "loans" mean insured loans for purposes of Subtitle A, and direct loans and price support loans for purposes of Subtitle B. Such term also includes any commitment to provide any such form or combination of forms of assistance.

(12) the term "Indian tribe" means any Indian tribe, band, or nation.

(13) the term "motor fuel" means gasoline, kerosene, and middle distillates (including diesel fuel).

(14) the term "municipal waste" means any organic matter including sewage, sewage sludge, and industrial or commercial waste and mixtures of such matter and inorganic refuse from a public or private municipal waste collection or similar disposal system or from similar waste flows (other than such flows which constitute agricultural wastes or residues, such as milk and cheese processing wastes; or wood wastes or residues from wood harvesting activities or production of forest products). The term "municipal waste" does not include any hazardous waste, as determined by the Secretary of Energy for purposes of this title. Organic matter also includes plastics and other materials derived from petroleum or natural gas.

(15) the term "municipal waste energy project" means any facility or portion of a facility located in the United States primarily for a) the production of biomass fuel and byproducts from municipal waste or b) the combustion of municipal wastes, for the purpose of generating steam or forms of useful energy, including industrial process heat, mechanical power, or electricity, including cogeneration. The term includes any necessary transportation, preparation, and disposal equipment and machinery for use in or at the site of the facility involved.

(16) the term "Office of Alcohol Fuels" means the Office of Alcohol Fuels established under section 220 of this title.

(17) the term "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any State or local government (including any special purpose district or similar governmental unit) or any agency or instrumentality thereof, or any Indian tribe or tribal organization.

(18) the term "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(19) the term "small scale biomass energy project" means a biomass energy project with an anticipated annual production capacity of not more than 1,000,000 gallons of ethanol, or its energy equivalent of other forms of biomass energy.

Funding for Subtitles A and B

Section 204 provides that for the two-year period beginning October 1, 1980, there is authorized to be appropriated and transferred to the extent provided in advance in appropriation acts, \$1,450,000,000 from the Energy Security Reserve established in the Treasury of the United States pursuant to Public Law 96-126. These funds shall be

available to the Department of Agriculture and Department of Energy as follows:

(1) \$600,000,000 to the Secretary of Agriculture for carrying out activities under subtitle A of which up to one-third shall be for small scale biomass energy projects:

(2) \$600,000,000 to the Secretary of Energy for carrying out biomass energy activities under subtitle A, of which at least \$500,000,000 shall be available to the Office of Alcohol Fuels for carrying out its activities and any amount not made available to the Office of Alcohol Fuels shall be available to the Secretary to carry out the purposes of subtitle A under available authorities of the Secretary, including authorities under subtitle A; and

(3) \$250,000,000 to the Secretary of Energy for carrying out activities under subtitle B.

Funds made available under this section shall remain available until expended.

The conferees intend that the funds provided pursuant to this authorization shall be provided directly for the use of the Secretaries, as provided for in this title.

For purposes of determining the amount of such appropriations which remain available for purposes of this title: (a) loans shall be counted at the initial face value of the loan; (b) loan guarantees shall be counted at the initial face value of such loan guarantee; (c) price guarantees and purchase agreements shall be counted at the value determined by the Secretary concerned as of the date of each such contract based upon the Secretary's determination of the maximum potential liability of the United States under the contract; and (d) any increase in the liability of the United States pursuant to any amendment or other modification to a contract for a loan, loan guarantee, price guarantee, or purchase agreement, shall be counted to the extent of such increase.

Determinations shall be made in accordance with generally accepted accounting principles, consistently applied. If more than one form of financial assistance is to be provided to any one project, the obligations and commitments thereunder shall be counted at the maximum potential exposure of the United States on such project at any time during the life of such project.

Any commitment to provide financial assistance shall be treated the same as such assistance for purposes of this section; except that any such commitment which is nullified or voided for any reason shall not be considered for purposes of this section.

Financial assistance may be provided under this subtitle only to the extent provided in advance in appropriations acts.

Coordination With Other Authorities and Programs

Section 205 provides that the authorities contained in this title are in addition to and do not modify (except to the extent expressly provided for in this title) the authorities and programs of the Department of Energy and of the Department of Agriculture under other provisions of law.

SUBTITLE A—GENERAL BIOMASS ENERGY DEVELOPMENT

Biomass Energy Development Plans

Section 211(a) requires the Secretary of Agriculture and the Secretary of Energy within 180 days after enactment jointly to prepare and transmit to the President and the Congress, a plan for maximizing, in accordance with the purposes, goals, terms, conditions and restrictions in this subtitle, biomass energy production and use. In addition to establishing a goal for the production of other forms of biomass energy, such plan shall be designed to achieve a total level of alcohol production and use within the United States of at least 60,000 barrels per day of alcohol by December 31, 1982.

Section 211(b) requires the Secretary of Agriculture and Secretary of Energy, not later than January 1, 1982, jointly to prepare and transmit to the President and the Congress, a comprehensive plan for maximizing biomass energy production and use in accordance with the purposes, goals, terms, conditions, and restrictions of this subtitle, for the eight-year period beginning January 1, 1983, and ending December 31, 1990. In addition to establishing a goal for the other forms of biomass energy such plan shall be designed to achieve a level of alcohol production within the United States equal to at least 10 percent of the estimated level of gasoline consumption in the United States for the calendar year 1990. This plan shall include an evaluation of the feasibility of reaching the goals set forth in the plan.

Section 211(c) requires the plans prepared under subsections (a) and (b) to include guidelines to be used in awarding financial assistance under this subtitle. The guidelines shall be designed to increase during the period covered by the plan the relative amount of motor fuel displaced by the production of biomass energy. The Conferees anticipate that one of the significant aspects of such displacement will be achieved through the increased use of alcohol fuels in a manner which maximizes the octane enhancement qualities of such fuels.

The Conferees believe that rural electric cooperatives can contribute significantly toward achieving increased biomass energy production and would encourage DOE to consider participation by such cooperatives in promising energy demonstration projects.

Program Responsibility and Administration; Effect on Other Programs

Section 212(a)(1) provides that, except as provided in paragraph (2) for projects which are eligible for financial assistance from either or both USDA or DOE, the Secretary concerned with respect to any financial assistance under this subtitle for a biomass energy project shall be (A) the Secretary of Agriculture, for any biomass energy project which will have an anticipated annual production capacity of less than 15,000,000 gallons of ethanol (or the energy equivalent of other forms of biomass energy) and which will use feedstocks other than aquatic plants; and (B) the Secretary of Energy, for any biomass energy project which will use aquatic plants as feedstocks or which will have an anticipated annual production capacity of 15,000,000 gallons or more of ethanol (or the energy

applications for financial assistance are established within 90 days after the date of the enactment; (2) applications for financial assistance for biomass energy projects are initially solicited within 30 days after such guidelines are established; (3) additional applications for financial assistance under this subtitle are solicited within one year after the date of the initial solicitations; (4) any application is evaluated and a decision made on such application within 120 days after receipt of the application, including any consultation or concurrence provisions under subsection (a)(2)(C), (a)(2)(D) or (c); and (5) all interested parties are provided the easiest possible access to the application process. A decision can include an award of assistance, a commitment to award assistance or a disapproval of the application. Subsection (b)(2) provides that the procedural requirements of subparagraph (A) through (D) of paragraph (1) shall not apply to either Secretary to the extent that the Secretary finds that other procedures are adopted for the solicitation, evaluation, and awarding of financial assistance which will result in applications being processed more expeditiously.

Subsection (b) does not require that applications be considered on a simultaneous consideration (batch) basis. The Conferees encourage the Department of Agriculture to use existing Farmers Home Administration procedures which provide for a single ongoing solicitation with projects reviewed on a sequential basis for purposes of expediting administration of this title. In the interest of expediting implementation of the authorities contained in this title, the conferees would encourage the use of interim final regulations which conform existing FmHA procedures to the provisions of this title.

Subsection (c) contains consultation provisions which require that after evaluating any application and before awarding any financial assistance on the basis of that application, the Secretary concerned shall provide the other Secretary with (1) a copy of the application and any other appropriate supporting material, and (2) an opportunity to review the project involved.

Reviews of projects under subsection (a)(2)(C) (requiring concurrence) and paragraph (1)(B) of this section (providing for consultation) shall be on the following basis: (1) the Secretary of Agriculture shall review projects for the purpose of considering national agricultural policy issues including national, regional, and local impact of such project on agricultural supply, production and use; and (2) the Secretary of Energy shall review projects for the purpose of considering national energy policy impacts and the technical feasibility of the project.

The following procedure applies to all projects except those requiring concurrence under subsection (a)(2). The Secretary concerned shall notify the reviewing Secretary prior to approving a project. If the reviewing Secretary provides written notice specifying issues concerning matters subject to its review to the Secretary concerned before the end of the 15-day review period, the Secretary concerned may not award or commit to award financial assistance on the application for an additional 30 days to provide an opportunity during which time

Secretaries shall attempt to resolve issues raised by the review-

ng Secretary in his notice. At the expiration of the 30-day period, the Secretary concerned may take final action with respect to the application, using his best judgment to resolve any remaining issues.

The Secretary of Agriculture and the Secretary of Energy may jointly establish categories of projects to which the consultation provisions shall not apply. Within 90 days after the date of enactment, the Secretaries shall review potential categories and make an initial determination of exempted categories.

The Conferees intend that appropriate categories of exempted projects would include projects with insignificant impacts such as projects which, under normal agency procedures, would be processed solely at the local level, projects which replicate proven technologies or projects which only have minimal impact on agricultural or energy policy considerations.

Subsection (d) provides that if any application for financial assistance under this subtitle is disapproved, the applicant shall be provided written notice of the reasons for the disapproval. Prompt and precise notification will enable the applicant to make necessary changes and resubmit the application.

Subsection (e) provides that the functions assigned under this subtitle to the Secretary of Agriculture may be carried out by any of the administrative entities within the Department which the Secretary of Agriculture may designate. The Secretary of Agriculture is required, within 30 days after the date of enactment to make such designation and notify the Congress of the administrative entity or entities so designated and the officials within such administrative entity or entities who are responsible for such function.

The Secretary of Agriculture may issue such regulations as the Secretary deems necessary to carry out the provisions of this title.

The entity designated by the Secretary shall coordinate the administration of functions assigned to it under this subsection with any other biomass energy programs within the Department of Agriculture established under other provisions of law.

Subsection (f) provides that the functions under this subtitle which are assigned to the Secretary of Energy and which relate to alcohol fuels are assigned to the Office of Alcohol Fuels established under section 220. Any function not assigned to the Office of Alcohol Fuels shall be assigned by the Secretary pursuant to the DOE Organization Act.

Subsection (g) requires the Secretary of Agriculture and the Secretary of Energy to jointly prescribe, within 30 days of enactment, the quantity of any biomass energy which is the energy equivalent to 5,000,000 gallons of ethanol for purposes of administering the provisions of this subtitle.

Insured Loans

Subsection (a) provides that, subject to section 212 and section 217, the Secretary of Agriculture may commit to make, and make, insured loans in amounts not in excess of \$1,000,000 per project for the construction of small scale biomass energy projects. Small scale projects are projects which have an anticipated annual production capacity of

less than 1,000,000 gallons of ethanol or its energy equivalent of other forms of biomass energy.

Subsection (b) provides that insured loans (1) may not exceed 90 percent of the total estimated cost of the construction of the biomass energy project involved, and (2) shall bear interest at rates determined by the Secretary of Agriculture, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 percent as determined by the Secretary of Agriculture, and adjusted to the nearest one-eighth of 1 percent.

In the event the total estimated construction costs of the project exceed the total costs initially estimated by the Secretary of Agriculture, the Secretary may in addition, upon application therefor, make an insured loan for so much of the additional estimated total costs as does not exceed 10 percent of the total costs initially estimated.

Subsection (c) provides that the Secretary of Agriculture must make insured loans under section 213 using, to the extent provided in advance in appropriations Acts, the Agricultural Credit Insurance Fund in section 309 of the Consolidated Farm and Rural Development Act or the Rural Development Insurance Fund in section 309A of such Act. The Secretary of Agriculture could not use an aggregate amount of funds to make or commit to make insured loans under this section in excess of the aggregate amount for insured loans and related administrative costs appropriated and transferred under section 204. The terms, conditions, and requirements applicable to such insured loans would be in accordance with subtitle A.

Subsection (c) provides that there will be reimbursed to the Funds, from appropriations made under section 204 of this title, amounts equal to the operating and administrative costs incurred by the Secretary of Agriculture in insuring loans under this section. It is understood that losses resulting from lending under this section would be considered as operating costs.

Subsection (c) provides that, notwithstanding any provision of the Consolidated Farm and Rural Development Act, no funds made available to the Secretary of Agriculture under this section for insured loans may be used for any other purpose. For purposes of this section, the term "insured loan" means a loan which is made, sold, and insured.

Subsection (d) requires that prior to making an insured loan, the applicant for such loan must establish to the satisfaction of the Secretary that the applicant is unable without such a loan to obtain sufficient credit elsewhere at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms for loans for similar purposes and periods of time, to finance the construction of the biomass energy project for which such loan is sought.

Loan Guarantees

Section 214(a) provides that, subject to the requirements of sections 212 and 217, the Secretary of Agriculture or the Secretary of Energy (as the case may be) is authorized to commit to guarantee and to guarantee against loss of principal and interest for loans which are made to provide funds for the construction of biomass energy projects.

Section 214(b) provides that no commitment or guarantee under this section shall exceed 90 percent of the cost of construction of the project involved, as estimated by the Secretary concerned on the date of the commitment or guarantee.

In the event the cost of construction of a project for which a commitment or loan guarantee has been made thereafter exceeds the cost of construction initially estimated by the Secretary, upon application therefor, the Secretary concerned may provide loan guarantees for up to 60 percent of the difference between the initial cost of construction and the increased cost of construction, as estimated by the Secretary concerned.

Section 214(c) provides that no loan or other debt obligation which is guaranteed or committed to be guaranteed under this section shall be eligible for purchase by, or sale or issuance to the Federal Financing Bank.

Section 214(d) requires that the terms and conditions of loan guarantees under this section shall expressly provide that if the Secretary concerned makes any payment of principal or interest upon the default of the borrower, the Secretary shall be subrogated to the rights of the recipient of such payment.

Section 214(e) provides that any loan guarantee under this section should not be terminated, cancelled, or revoked except in accordance with its terms, and shall be conclusive evidence of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

Section 214(f) provides that in the event that the Secretary concerned determines that the borrower under a loan guarantee is unable to meet payments but is not in default; that it is in the public interest to permit the borrower to continue with the project; and that the benefit to the United States in advancing the principal and interest due under a guaranteed loan will be greater than that which would result in the event of a default, then the Secretary concerned may pay to the lender under the loan guarantee an amount up to the principal and interest which the borrower is obligated to pay if the borrower agrees to reimburse the Secretary on terms and conditions, including any requirement for collateral or other security, the Secretary deems necessary to protect the financial interests of the United States.

Section 214(g) provides that no loan shall be guaranteed under this section unless the applicant establishes to the satisfaction of the Secretary concerned that the lender is unwilling without such guarantee to extend credit to the applicant at reasonable terms to finance the construction of the biomass energy project for which such loan is sought.

Section 214(g) requires the Secretary concerned to ensure that the lender bears a reasonable degree of risk in the financing of the project. The conferees intend that the lender should bear a reasonable degree of the risk in order to assure the lender's full participation in financing. The lender should bear enough risk to assure that he will fully evaluate and scrutinize the loan for viability. In addition, this will also assure that the lender will fully service the loan during the life of the loan. The Secretary concerned may take into consideration the total financial exposure of the lender to the project.

Price Guarantees

Section 215 provides that subject to the requirements of sections 212 and 217, the Secretary of Agriculture and the Secretary of Energy, as the case may be, are authorized to commit to, or enter into, price guarantees providing that the price received by the owner or operator of any biomass energy project for all or part of the production from the project involved shall not be less than a specified sales price determined as of the date of execution of the commitment or guarantee.

No such price guarantee may be based upon a cost plus arrangement, or variant thereof, which guarantees a profit to the owner or operator involved. However, the use of a cost-of-service pricing mechanism by a person pursuant to law, or by a regulatory body establishing rates for a regulated person, shall not be deemed to be a cost plus arrangement, or variant thereof, for purposes of this provision.

Any price guarantee, or commitment to guarantee, under this section must specify the maximum dollar amount of liability of the United States.

If the Secretary determines that a biomass energy project would not otherwise be satisfactorily completed or continued, and that completion or continuation of such project would be necessary to achieve the purposes of this title, the sales price set forth in the price guarantee and maximum liability under such guarantee may be renegotiated.

Purchase Agreements

Section 216 authorizes the Secretary of Agriculture or the Secretary of Energy, as the case may be, subject to sections 212 and 217, to commit to and enter into purchase agreements for all or part of the biomass energy production of any biomass energy project, if he determines 1) that the biomass energy involved is of a type, quantity, and quality that can be used by Federal agencies; and 2) that if delivery is accepted, the quantity involved would not exceed the anticipated likely needs of Federal agencies.

In order to avoid excessive purchases for delivery to Federal agencies, the Secretaries must consult with one another before making any determination regarding quantities and agency needs.

The sales price specified in a purchase agreement may not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Secretary concerned determines that such sales price must exceed the estimated prevailing market price in order to ensure the production of biomass energy to achieve the purposes of this title. The Conferees intend that in making this determination, the Secretary concerned will act to advance the purposes of this title including the goals set forth in Section 211.

In entering into, or committing to enter into, a purchase agreement under this section, the Secretary concerned shall require assurance that the quality of the biomass energy purchased will meet the standard for the use for which it is purchased; on a timely basis; and such other required.

The Secretary concerned shall require assurance that the quality of the biomass energy purchased will meet the standard for the use for which it is purchased; on a timely basis; and such other required.

agencies. The Conferees intend that consultations under subsection 216(e) will be undertaken in order to determine appropriate arrangements for the distribution and use of fuel accepted for delivery under any agreement. It is expected that the Secretary concerned, in order to avoid the delivery of excessive or unusable amounts of product, as appropriate, will exercise the right to refuse delivery reserved to the Government in the contract as provided in subsection 216(f). Federal agencies receiving such energy shall be charged (in accordance with otherwise applicable law), from sums appropriated to them, the prevailing market price as of the date of delivery, for the product which the biomass energy is replacing, as determined by the Secretary of Energy.

The Secretary concerned is required to consult with the Secretary of Defense and the Administrator of the General Services Administration in carrying out this section for purposes of determining Federal agency needs and making appropriate arrangements for delivery.

Each commitment to purchase and purchase agreement under this section shall provide that the Secretary concerned retains the right to refuse delivery of the biomass energy involved upon such terms and conditions as shall be specified in the purchase agreement, including lack of a Federal agency use for the biomass energy, and shall specify the maximum dollar amount of liability of the United States under the agreement.

If the Secretary concerned determines that a biomass energy project would not otherwise be satisfactorily completed or continued, and that completion or continuation of the project is necessary to achieve the purposes of this title, the sales price set forth in the purchase agreement, and maximum liability under the agreement, may be renegotiated.

General Requirements Regarding Financial Assistance

Section 217 requires that in establishing and implementing their procedures for evaluating applications for financial assistance, both Secretaries shall include procedures which will provide a priority for those biomass energy projects that use a primary fuel other than petroleum or natural gas in the production of biomass fuel. Examples of such alternatives would be geothermal energy resources, solar energy resources, waste heat, or coal. Solar energy resources is given its broadest meaning and includes wood, bagasse, and corn stover. This list of alternative fuels is not considered to be all inclusive. For purposes of this provision, the use of petroleum or natural gas does not include fuels which are commercially unmarketable by reason of quality, quantity or distance from existing transportation systems, such as the flaring of natural gas. A primary fuel is considered to be the predominate fuel used by the biomass energy project and does not include incidental use of petroleum or natural gas, for example, for flame stabilization.

In addition, each Secretary shall accord the same priority treatment for biomass energy projects which apply new technologies that expand possible feedstocks for biomass energy projects, which produce new forms of biomass energy, or which produce biomass fuel using improved or new technologies. In addition, each Secretary is to attempt

to accord the most favorable financial terms to such projects to encourage such projects to maximize the production of biomass energy. In designing the overall program for financial assistance, the Secretary concerned should assure that the duplication of the technologies used by biomass energy projects receiving assistance under this subtitle is minimized in cases where there is a variety of available technologies. The preceding sentence does not apply to the production of liquid biomass fuels.

This priority is not to be used in any way to exclude a project from financial assistance which does not use such a fuel or apply such a technology. Priority treatment can be provided only if the project complies with the terms and conditions provided for in this title.

Section 217 provides that financial assistance can only be given to a biomass energy project which produces a biomass fuel if the Secretary concerned finds that the Btu content of motor fuels to be used in the project does not exceed the Btu content of the biomass fuel produced by the project. In making such a determination the Secretary shall consider only the project for which financial assistance is requested.

In making such a determination the Secretary concerned shall also take into account any displacement of motor fuel or other petroleum products which occurs after the production of biomass fuel. Such displacement could occur after the fuel is produced, as a result of the marketing operation or because of the manner in which the biomass fuel is used such as through octane enhancement. Characteristics of ethanol blending would allow a refiner to reduce the severity of reforming and to produce gasoline of a sufficient octane level for market, resulting in decreased consumption of fuel by the refinery. This provision requires that the applicant bear the burden of proof that such displacement will occur.

Section 217 provides that no financial assistance may be provided for any biomass energy project if the Secretary concerned finds that the process to be used by the project will not extract the protein content of the feedstock for utilization as food or feed, or for resale for such use, for readily available markets in any case in which to do so would be technically and economically practicable. The burden of making such a finding is on the Secretary concerned.

Section 217 provides that financial assistance may not be provided under this subtitle to any person unless the Secretary concerned finds that necessary feedstocks are available and it is reasonable to expect they will continue to be available in the future; and, for biomass energy projects using wood or wood wastes or residues from the National Forest System, there shall be taken into account current levels of use by then existing facilities.

The Conferees are concerned that adequate supplies of wood and wood wastes and residue be maintained for the production of both wood products and biomass energy. While the Conferees believe that a greater use of wood and wood wastes and residue for biomass energy can be entirely consistent with maintaining an adequate wood fiber supply for the production of wood and wood products, the Conferees believe that it is necessary that the Secretary concerned consider the effects of a biomass energy project using wood and wood wastes and

residues from the National Forest System lands on the local timber market supply before awarding any financial assistance as provided for under this subtitle. Sufficient availability of wood and wood wastes and residues from the National Forest System lands for existing and proposed facilities is the primary concern addressed by this provision.

Section 217 provides that no person may qualify for financial assistance unless he has provided the Secretary with assurance that he will bear a reasonable degree of risk in the construction and operation of the project, considering all financial aspects of the project.

Section 217 provides that in order to maximize the production of biomass energy, and for the other purposes of this subtitle the Secretary shall award only the amount of financial assistance necessary for a biomass energy project. The Secretary concerned shall take into account the other types of financial assistance requested and awarded.

Section 217 requires that in providing financial assistance, the Secretary concerned may evaluate the markets involved, and shall give due consideration to promoting competition.

Section 217 provides that the Secretary must consider any potential revenues from byproducts in addition to biomass energy, which are produced by a biomass energy project, and the costs attributable to their production. Such consideration shall go toward the Secretary's determination of the amount of financial assistance which should be awarded to the project.

Section 217 provides that insured loans and loan guarantees may not be made unless the Secretary concerned determines that the financial interests of the United States are sufficiently protected. He shall make this determination by considering the terms, conditions, maturity, security and scheduled amounts of repayments with respect to such loan.

Section 217 provides that no financial assistance may be provided by the Secretary concerned unless the application has been submitted and approved according to procedures established under this subtitle.

Section 217 requires the applicant to provide the Secretary concerned information regarding the construction costs of the biomass energy project involved, estimates of operating costs and income, and income from the sale of any byproducts, and such other assurances as the Secretary may require. In addition, the applicant shall provide to the Secretary access to the information required by such Secretary at all reasonable times thereafter. The Secretary concerned may require the recipient of financial assistance to consent to examinations and reports, as a condition precedent to the award of financial assistance. The Secretary concerned will prescribe the manner in which the recipient shall keep records necessary for the Secretary's information. The Conferees expect that the Secretary concerned will require recipients of financial assistance to maintain and make available whatever records may be necessary to safeguard the interests of the Government. At the same time, recipients are not to be subjected to unnecessary recordkeeping burdens. The Conferees intend that such requirements be formulated so as to avoid unnecessary recordkeeping. To minimize such burdens, the Secretaries are expected to use to the maximum extent practicable records and information a recipient of assistance is already required to maintain for regulatory and other purposes.

Section 217 provides that all contracts and instruments of the Secretary concerned to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

Section 217 provides that, subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

Section 217 authorizes the Secretary concerned in the case of loan guarantees, price guarantees, or purchase agreements to charge and collect a fee for providing such financial assistance. The amount of such fee shall be based on the estimated administrative costs and risk of loss, except that the fee may not exceed 1 percent of the maximum financial assistance provided.

Section 217 requires that, except for insured loans under section 213, all amounts received by either Secretary from operations under this subtitle shall be deposited in the Treasury of the United States as miscellaneous receipts.

Reports

Section 218 requires the Secretaries of Agriculture and Energy to report to the Congress quarterly on biomass activities relating to this subtitle. The Secretaries shall file a comprehensive list with Congress within four months of enactment that outlines existing or proposed financial assistance programs available for alcohol fuel production from Federal, State, or private sources.

Section 218 contains additional reporting requirements for the Office of Alcohol Fuels as follows:

(1) The submission of an annual report to the Congress and President highlighting the status of individual alcohol fuel projects that received financial assistance from the Office, and a statement reviewing the Office's activities (including a financial statement), the progress made toward meeting the production goals established in the subtitle and any further recommendations to the Congress on how to meet these goals; and

(2) The writing and filing of a report to the Congress and President prior to September 30, 1990 summarizing the overall impact of the program, the status of the individually-financed alcohol projects, and a plan for terminating the operation of the Office.

Review; reorganization

Section 219 provides for the periodic review of the progress of both Departments under this title. The President may recommend reorganization, specifically any realignment of the responsibilities of the two Departments under this subtitle. The President would propose such a reorganization pursuant to the authority in Chapter 9 of title 5 of the United States Code.

Establishment of Office of Alcohol Fuels in Department of Energy

Section 220 establishes, within the Department of Energy, an Office of Alcohol Fuels, as an independent office in the Department of Energy. The Office will be headed by a Director, appointed by the Presi-

dent and confirmed by the Senate. The Director will be responsible for carrying out the functions of the Secretary of Energy under this subtitle which relate to alcohol production. He shall be responsible for all matters, including the terms and conditions of financial assistance and the selection of recipients for that assistance, subject to the general supervision of the Secretary. For all other matters the director shall be subject to the Secretary's authority. The Director will report directly to the Secretary, and shall report to no other officer or employee of the Department.

Section 220 requires the Office to submit a separate report in the annual budget submission for DOE. The Secretary, after consulting with the Director, is required to consult with named heads of other departments and agencies, or their appointed representatives and to coordinate the programs under the Director's responsibility with other programs within the Department of Energy and in the named departments and agencies.

Termination

Section 221 prohibits the commitment or negotiation of new insured loan agreements, loan guarantees, price guarantees, or purchase agreements after September 30, 1984.

SUBTITLE B—MUNICIPAL WASTE BIOMASS ENERGY

Municipal Waste Energy Development Plan

Section 231(a) directs the Secretary of Energy to prepare a comprehensive plan for carrying out the authorities and responsibilities in subtitle B. In so doing, the Secretary must consult with the Administrator of the Environmental Protection Agency, Secretary of Commerce and the heads of the other Federal agencies as may be appropriate.

The Conferees intend that the Director of the Office of Energy from Municipal Waste will have chief responsibility for the preparation of the comprehensive plan. The Conferees stress that the intent of this legislation is to expedite the commercialization of municipal waste-to-energy technologies.

Section 231(b) directs the Secretary to transmit the comprehensive plan within 90 days of enactment of this Act to the President and the Congress.

Section 231(c) prescribes those elements which should be contained in the comprehensive plan including the anticipated objectives to be achieved, a description of the management structure and the approach to be used, the program strategies including detailed milestones, and the funding requirements for each program element and activity and the expected contribution from the non-federal participants in the program.

Section 231(d) directs the Secretary to prepare and submit to the President and the Congress no later than January 1, 1982, a report containing a complete description of the financial, institutional, environmental and social barriers to the development and applications of technologies for the recovery of energy from municipal waste. The Conferees intend that the Secretary should solicit the views and com-

ments of the Administrator of the Environmental Protection Agency and the Secretary of Commerce (or their designees) prior to the preparation of this report.

Construction Loans

Section 232(a) provides authority to the Secretary of Energy to commit to make and make loans for the construction of municipal waste energy projects, consistent with certain limitations required under section 235 and 236.

Section 232(b) limits the construction loans to a maximum of 80 percent of the total estimated cost of the construction project and specifies that the interest rates will be determined by the Secretary of Energy considering the current average market yield and outstanding marketable obligations in the United States with a maximum addition of 1-percent rounded off to the nearest one-eighth of 1 percent. It also allows the Secretary to make an additional loan available to an applicant for costs that exceed the initial estimate up to a maximum amount of 10 percent of the initial total estimated costs of construction.

Section 232(c) requires the applicant to satisfy the Secretary of Energy that without such a loan the applicant would not be able to obtain sufficient credit elsewhere at reasonable rates and terms to finance the construction of the project.

Guaranteed Construction Loans

Section 233(a) grants authority to the Secretary of Energy to commit to guarantee and guarantee against loss of up to 90 percent of the principal and interest on loans consistent with certain limitations required under Sections 235 and 236, which are made solely to provide funds for the construction of municipal waste energy projects.

Section 233(b) allows the Secretary to make an additional loan guarantee available to an applicant on up to 10 percent of the costs that exceed the initial total estimated costs of construction. The loan guarantee is restricted to 90 percent of such cost overruns.

Section 233(c) requires that the terms and conditions of loan guarantees under this section shall expressly provide that if the Secretary of Energy makes any payment of principal or interest upon the default of the borrower, the Secretary shall be subrogated to the rights of the recipients of such payment.

Section 233(d) provides that any loan guarantee under this section may not be terminated, cancelled, or revoked except in accordance with its terms, and shall be conclusive evidence of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

Section 233(e) provides that in the event that the Secretary of Energy determines that the borrower under a loan guarantee is unable to meet payments but is not in default; that it is in the public interest to permit the borrower to continue with the project; and that the benefit to the United States in advancing the principal and interest due under a guaranteed loan will be greater than that which

d result in the event of a default, then the Secretary may pay the lender under the loan guarantee an amount up to the principal

and interest which the borrower is obligated to pay if the borrower agrees to reimburse the Secretary on terms and conditions, including any requirement for collateral or other security, the Secretary deems necessary to protect the financial interests of the United States.

Section 233(f) provides that no loan shall be guaranteed under this section unless the applicant establishes to the satisfaction of the Secretary of Energy that the lender is unwilling without such guarantee to extend credit to the applicant at reasonable terms to finance the construction of the municipal waste energy project for which such sum is sought.

Section 233(g) provides that interest paid on loans or debt obligations, which are issued after the date of enactment of this Act, and are guaranteed by the Secretary, and are not supported by the full faith and credit of the issuer, must be included as gross income by the purchaser. With respect to such guaranteed obligation, the Secretary is authorized to pay the issuer an interest differential payment for the purpose of compensating the issuer for increased costs as a consequence of the taxable status of interest on the obligation.

Section 233(h) provides the Secretary with the authority to charge and collect fees for a loan guarantee in an amount which does not exceed 1 percent of the maximum value of the guarantee.

Price Support Loans and Price Guarantees

Sec. 234 provides the Secretary of Energy with the authority to make price support loans for the operation of either new or existing municipal waste energy projects and price guarantees for the operation of new municipal waste energy projects.

A new municipal waste energy project is one placed in service after the date of enactment of the Act or is an existing facility which significantly increases its capacity after the date of enactment of the Act. A facility is considered "placed in service" if it has operated at more than 50 percent of its estimated operational capacity.

In each case, financial assistance becomes available only if biomass energy is produced and sold. Biomass energy in this context means electricity or steam produced by direct combustion of municipal waste or gaseous, liquid or solid fuels derived from municipal waste. It does not include metals or other byproducts separated from the municipal waste for recycling and, thus, the financial assistance is expressly limited to energy sold and does not extend to the sale of other recovered materials produced by the municipal waste energy project.

In order to minimize the need for subsidies to municipal waste energy projects the Conferees encourage the Administrator of EPA to vigorously enforce the provisions of the Resource Conservation and Recovery Act, so that tipping fees reflect the real costs of waste disposal in landfills.

Section 234(a) restricts the time during which an existing facility can get financial assistance in the form of a price support loan to five years and requires that the loan be paid back during the next 10 year period. If the economic life of the plant is less than 10 years, then the loan repayment term will be set equal to the economic life of the plant. The amount of the price support loan granted each year is diminished by 20 percent so that after five years the amount of the price support loan is reduced to zero.

No interest is charged during the first five years but it is expected that an interest rate equal approximately to the "cost of money" to the Government will be charged over the repayment period.

The amount of the price support loan is the lesser of:

1) $\$2.00 \times (\text{biomass energy produced and sold during the first year})$;
or

2) $\left[\left(\begin{array}{c} \text{Price of imported \#6 fuel oil at the} \\ \text{date of enactment as determined} \\ \text{by the Secretary} \end{array} \right) - \left(\begin{array}{c} \text{Cost of the energy dis-} \\ \text{placed by the biomass} \\ \text{energy} \end{array} \right) \right]$

$\times (\text{biomass energy produced and sold during the first year})$.

All quantities in the formula are computed in units of "dollars per million Btu's." If the energy displaced is petroleum or a petroleum product, the price of imported #6 fuel is increased by 25 percent.

For example, if the Secretary determines that the price of imported #6 fuel oil at the time of enactment is \$3.70 per million Btu's (\$23 per barrel) and that the fuel displaced by the sale of the biomass energy from the municipal waste energy project is natural gas priced at \$2.70 per million Btu's, then the amount of the price support loan would be \$1.00 per million Btu's (\$3.70-\$2.70) produced and sold. If the fuel displaced is, for example, #2 fuel oil, then the \$3.70 is adjusted up to \$4.63 (1.25×3.70) and the price support loan is \$1.93 per million Btu's.

Section 234(b) provides the Secretary with the authority to make price support loans for the operation of new facilities. These authorities are similar to those in subsection (a) except that the initial disbursement period is increased from five to seven years during which the loan amount is decreased one-seventh per year and the repayment period is set at the lower of the economic life of the facility or fifteen years.

Section 234(c) provides the Secretary with the authority to make price guarantees for the operation of a new facility. The guarantee would state that the price the owner or operator of the project will receive for all or part of the production from a facility would be not less than a specified sales price determined as of the date of execution of the guarantee agreement. No guarantee agreement can be on a cost-plus arrangement and no guarantee may last more than 7 years.

The Secretary may require the funds disbursed under the price guarantee agreement to be repaid. The Act allows the Secretary to set the terms and conditions of such a repayment requirement including interest at a rate not in excess of the rate provided for under subsection (a).

Section 234(d) defines the terms used in this subtitle. It specifies that for either an existing or a new facility which produces electricity or steam, the Secretary can, in the price support formula, multiply the price of No. 6 fuel oil by adjustment factors which he determines to be appropriate.

This section clarifies that any biomass energy from a municipal waste energy project may be retained for use by the owner or operator of such project and shall be considered as sold at such price as the Secretary of Energy determines. This section requires the Secretary

to prescribe by rule within 90 days of enactment the manner of determining the fuel displaced by biomass energy sold or considered as sold, and the price of the fuel displaced.

General Requirements Regarding Financial Assistance

Section 235(a)(1) gives priority for financial assistance (consistent with Section 232, 243, and 234) to those municipal waste energy projects which produce a liquid fuel or which replace petroleum or natural gas as a fuel. Such priority should not be given for a project that intends primarily to displace the use of coal.

Section 235(a)(2) provides that financial assistance will only be available to projects which directly combust municipal waste if such projects do not use petroleum or natural gas except for flame stabilization or start up. For projects which produce biomass fuel, financial assistance may only be provided if the Btu content of any biomass fuel produced substantially exceeds the Btu content of any petroleum or natural gas used in the facility.

Section 235(a)(3) limits financial assistance to those projects which will have adequate municipal waste feedstocks for the expected economic life of the project.

Section 235(a)(4) requires the Secretary to give due consideration to the promotion of competition in providing financial assistance.

Section 235(a)(5) directs the Secretary to consider the potential value of byproducts and the cost attributed to their production in determining the amount of financial assistance for any municipal waste energy project. Such byproducts include metals, paper, glass and other similar recycleable materials.

Section 235(a)(6) restricts the financial assistance for municipal waste energy projects to those where the Secretary first determines that the project will be technically and economically viable, in addition, the municipal waste energy project shall not use in any substantial quantities wastepaper that could otherwise be recycled for use other than fuel. Such projects shall not substantially compete with facilities engaged in the separation of reuseable materials such as source separate wastepaper. The Conferees, in protecting existing recycling facilities, do not intend to preclude the expansion of materials recycling to fulfill market demand for such recycled materials, that the financial assistance provided encourages and supplements but does not compete with or supplant any private capital investment which otherwise would be available to the project on reasonable terms and conditions, and that the financial assistance provided to the project is only what is necessary in order to make the project viable. The Conferees also intend that the Secretary should consider whether the project will unnecessarily disrupt the existing municipal waste collection and disposal systems. The proposed municipal waste energy project should be coordinated with local or regional planning activities and be consistent with existing municipal services to the extent possible. Priority should be given to those projects for which planning and feasibility studies have been completed under existing authorities.

Section 235(b) limits financial assistance to those projects where the Secretary of Energy determines that the terms, conditions, maturity, security and schedule and amounts of repayment, with respect to

any assistance are reasonable and meets such standards as the Secretary determines are sufficient to protect the financial interests of the United States. He must also determine that the person receiving such financial assistance will bear a reasonable degree of risk with respect to the project.

Section 235(c) limits financial assistance to a person who makes application to the Secretary of Energy in the form and under such procedures as he may prescribe and whose application has subsequently been approved by the Secretary. It further states that each application shall include information regarding the cost of the municipal waste energy project involved including the construction and operation costs as may be applicable. In addition, each applicant shall also provide access at reasonable times to such other information and such assurances as the Secretary of Energy may require.

Section 235(d) states that every person receiving financial assistance shall consent to such examinations and reports thereon regarding the municipal waste energy project involved as the Secretary of Energy may require. With respect to each municipal waste energy project for which financial assistance is provided, the Secretary must require the person receiving financial assistance to provide such reports as he deems are appropriate, prescribe the manner in which the person receiving assistance shall keep records, and have access to those records at reasonable times for the purpose of insuring compliance with the terms and conditions of the assistance provided.

Section 235(e) states that all amounts received by the Secretary of Energy as fees, interest, repayment of principal and any other moneys received from operations under this title shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

Section 235(f) provides that all obligations of the Secretary providing financial assistance shall be considered general obligations of the United States and backed by the full faith and credit of the United States.

Section 235(g) states that contracts in the hands of the holder shall be incontestable except as to fraud or material misrepresentation on the part of the holder.

Section 235(h) provides that no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed under sections 232, 233, or 235 shall be eligible for purchase by the Federal Financing Bank or any other Federal agency.

Financial Assistance Program Administration

Section 236 directs the Secretary to establish procedures and other actions as may be necessary regarding the solicitation, review and evaluation of applications for awarding of financial assistance as may be necessary to carry out the plan.

Commercialization Demonstration Program

Section 237(a)(1) directs the Secretary of Energy to establish and conduct, pursuant to the authorities contained in the Federal Non-nuclear Energy Research and Development Act of 1974, an accelerated research, development and demonstration program for promoting the commercial viability of processes for the recovery of energy from municipal wastes.

Section 237(a)(2) exempts the provisions of subsections (d), (m) and (x)(2) of section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974 from applying to the program established under this section.

Section 237(a)(3) directs the Secretary, after consultation with the Administrator of the Environmental Protection Agency and the Secretary of Commerce, to undertake a) the research, development and demonstration of methods to recover energy from municipal waste; b) the development and application of new municipal waste-to-energy recovery technologies; c) the assessment, evaluation, demonstration and improvement of the performance of existing municipal waste-to-energy recovery technologies with respect to their cost; d) the evaluation of municipal waste energy projects for the purpose of developing a base of engineering data that can be used in the design of future municipal waste energy projects; and e) research studies on the size and other significant characteristics of potential markets for energy resource recovery technologies and recovered energy and energy intensive material products.

Section 237(b) allows the Secretary of Energy to provide financial assistance consisting of price supports, loans, and loan guarantees, for the cost of planning, designing, constructing, operating, and maintaining demonstration facilities, and, in the case of existing facilities modification of those facilities solely for demonstration purposes, for the conversion from municipal waste into energy or the recovery of materials.

Section 237(c) gives priority funding to those activities which demonstrate technologies for the production of biomass energy which substitute for fuels derived from petroleum and natural gas.

Section 237(d) restricts the Secretary of Energy from obligating or expending any funds authorized by this title in carrying out the commercial demonstration activities prior to the submittal of the comprehensive plan required under section 231 to the Congress.

Section 237(e) provides that all amounts received by the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by the Secretary from operations under this section shall be deposited in the general Treasury of the United States as miscellaneous receipts.

Jurisdiction of the Department of Energy and Environmental Protection Agency

Section 238 states that the provision of section 20(c) of the Federal Nonnuclear Energy Research and Development Act relating to the responsibilities of the Environmental Protection Agency and the Department of Energy will apply with respect to actions taken under the commercial demonstration program.

Establishment of Office of Energy From Municipal Waste in the Department of Energy

Section 239 establishes the Office of Energy from Municipal Waste in the Department of Energy. The Office is to be headed by a Director who will be appointed by the Secretary.

The Conferees intend that the Office be established with minimal disruption to and minimal reorganization of the existing programs.

Section 239(b) states that the function of the Office will be to perform the research, development and demonstration and commercialization activities under Subtitle B as well as such other duties as the Secretary may have assigned to the Office.

It is intended that the Secretary will delegate the new authorities in Subtitle B to the Director of the Office.

Section 239(c) directs the Secretary to consult with the Administrator of the Environmental Protection Agency and the Secretary of Commerce and the heads of other Federal agencies as he deems appropriate in carrying out his functions assigned to the Director of the Office.

Section 239(d) directs the Secretary to transfer such functions and personnel of the Department of Energy as may be necessary and appropriate to the Office of Energy From Municipal Waste to carry out the purposes of this subtitle. The Conferees intend that the Office established will be staffed by those individuals who are presently running the existing Urban Waste and Municipal Waste to Energy program within the Department.

Termination

Section 240 provides no financial assistance loan may be committed to or made under this subtitle after September 30, 1984.

SUBTITLE C—RURAL, AGRICULTURAL AND FORESTRY BIOMASS ENERGY

Model Demonstration Biomass Energy Facilities

Section 251(a) requires the Secretary of Agriculture to establish up to ten model demonstration biomass energy facilities to demonstrate the most advanced technologies available for producing biomass energy. The facilities and information regarding the operation of the facilities would be made available for public inspection. To the extent practicable, the facilities would be established in various regions of the United States so that the technology for a variety of different agricultural and forestry feedstocks would be demonstrated. The facilities could be established in cooperation with other appropriate departments, agencies, or other instrumentalities of any State or the Federal government, including the Tennessee Valley Authority.

Section 251(b) authorizes appropriations of \$5,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984 for the model demonstration biomass energy facilities.

Biomass Energy Research and Demonstration Projects

Section 252 amends Section 1419 of the Food and Agriculture Act of 1977, which requires the Secretary of Agriculture to make grants for research related to the production and marketing of alcohol and industrial hydrocarbons made from agricultural commodities and forest products.

Under the amendments, eligibility for grants under Section 1419 would be extended to government corporations (such as the Tennessee Valley Authority), as well as to colleges and universities, as under existing law.

Section 252 strikes from Section 1419 the provisions that grants for oil-related research are to be made for research relating to the

roduction and marketing of alcohol made from agricultural commodities and forest products, and substitutes a provision requiring the making of grants for research that focuses on the production and marketing of alcohol and other forms of biomass energy as substitutes or petroleum or natural gas.

Under the amendment, new authority would be given to the Secretary to make grants for research relating to the development of the most economical and commercially feasible means of collecting and transporting waste residues and byproducts for use as feedstocks in producing alcohol and other forms of biomass energy.

The amendment adds a sentence to Section 1419 providing that alcohol and biomass related research grants may not be used to conduct research for the primary purpose of demonstrating integrated biomass energy systems for commercialization of technologies for applications other than agricultural or uniquely rural applications.

Under the amendment, at least 25 percent of the amount appropriated in any fiscal year under Section 1419 for alcohol and biomass related research would be required to be made available for grants for research relating to the production of alcohol that identifies and develops wood and wood waste and residues and agricultural commodities (including, among others, alfalfa, sweet sorghum, black locust, and cheese whey) that may be suitable for such production. An additional 5 percent of such amount appropriated for alcohol and biomass related research would have to be made available for grants for research relating to the development of technologies for increasing the energy efficiency and commercial and economic feasibility of alcohol production, including processes of cellulose conversion and cell membrane technology.

The amendment would add new authorities (in addition to those under existing law) for appropriations of \$12,000,000 for each of the fiscal years 1981, 1982, and 1983, and 1984 for alcohol and biomass related research under Section 1419.

Under the amendment, Section 1419, as contained in existing law and amended as described above, would be designated as subsection (a) and a new subsection (b) would be added to the section.

New subsection (b) would define the terms "biomass", "biomass energy", and "municipal waste", as used in Section 1419.

The term "biomass" would be defined to mean any organic matter that is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, and animal wastes, but would not include aquatic plants or municipal wastes. The term "biomass energy" would be defined to mean any gaseous, liquid, or solid fuel produced by the conversion of biomass, and energy derived from the combustion of biomass for the generation of electricity, mechanical power, or industrial process heat. It is understood that the word "conversion", as used in the definition, means the physical, chemical, or biological transformation of biomass into a usable energy resource, including the physical conversion of wood and wood wastes and residues into chips, pellets, and similar biomass energy products.

The definitions are consistent with the definitions of such terms contained in Sections 203 and 255 of this title.

Applied Research Regarding Energy Conservation and Biomass Energy Production and Use

Section 253 amends Section 1 of the Act of June 29, 1935 (commonly known as the Bankhead-Jones Act), which directs the Secretary of Agriculture to conduct research into the laws and principles underlying the basic problems of agriculture, to include among the Secretary's responsibilities (1) agricultural, forestry, and rural energy conservation applied research, and (2) biomass energy production and use applied research.

Forestry Energy Research

Section 254 amends Section 3(a) of the Forest and Rangeland Renewable Resources Research Act of 1978 to authorize the Secretary of Agriculture to conduct, support, and cooperate in energy production and conservation research and associated activities relating to the forest and rangeland renewable resources under that Act.

Biomass Energy Educational and Technical Assistance

Section 255 amends the National Agricultural Research, Extension, and Teaching Policy Act of 1977 by adding a new section 1413A to establish a biomass energy education and technical assistance program.

New Section 1413A(a) requires the Secretary of Agriculture, in cooperation with State directors of cooperative extension, administrators of extension for land-grant colleges and universities, State foresters or equivalent State officials, and the heads of other Federal departments and agencies, to provide educational programs for producers of agricultural commodities and wood and wood products to; (1) inform such producers of the feasibility of using biomass for energy; (2) disseminate the results of research on the use of biomass energy; (3) inform producers of the best available technology for use of biomass for energy; (4) provide technical assistance to producers to improve their ability to efficiently use biomass for energy; and (5) disseminate to such producers the results of research on energy conservation techniques and encourage producers to adopt such techniques.

New Section 1413A(b) authorizes the use of all appropriate education methods including meetings, short courses, workshops, tours, demonstrations, publications, news releases and radio and television programs, to implement new Section 1413A.

New Section 1413A(c) establishes the procedures under which State biomass energy educational and technical assistance plans will be developed. In those States that have only one land-grant college or university (as defined in Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977), the State director of cooperative extension would develop a single, comprehensive, and coordinated plan that includes every biomass energy educational and technical assistance program in effect or proposed in the State. In those States that have more than one land-grant college or university, such plan would be jointly developed by the administrative heads of extension of such institutions. The State plans would be developed with the full participation of the State forester or equivalent State official.

Plans developed under this subsection would be submitted to the Secretary of Agriculture annually for his approval. Each State would

be required to submit an annual progress report on the operation of its plan. The National Agricultural Research and Extension Users Advisory Board would review and make recommendations on programs conducted under new Section 1413A.

New Section 1413A(d) provides that funds be made available to the State director of cooperative extension and the administrator of extension for land-grant colleges and universities in each State in a manner consistent with the effective implementation of new Section 1413A.

New Section 1413A(e) contains definitions of "biomass", "biomass energy", and "municipal wastes". The definitions are consistent with the definitions of such terms contained in Sections 203 and 252 of this title.

New Section 1413A(f) authorizes appropriations of \$10 million annually for each of the fiscal years 1981, 1982, 1983, and 1984 to carry out new Section 1413A.

Rural Energy Extension Work

Section 256 amends the Smith-Lever Act (which provides for cooperative extension work by State extension services) to include rural energy as part of the cooperative extension work to be conducted under that Act.

Coordination of Research and Extension Activities

Section 257 requires the Secretary of Agriculture to coordinate the applied research and extension programs conducted under (1) subtitle C of Title II, and (2) Subtitle B and Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, the Bankhead-Jones Act, the Forest and Rangeland Renewable Resources Research Act of 1978, and the Smith-Lever Act, as amended under subtitle C, with the programs of the Department of Energy. The Secretary also would be required to consult on a continuing basis with the Subcommittee on Food and Renewable Resources of the Federal Coordinating Council for Science, Engineering, and Technology, the Joint Council on Food and Agricultural Sciences, and the National Agricultural Research and Extension Users Advisory Board, for the purpose of coordination.

The conferees intend that the Energy Extension Service coordinate its programs with the Cooperative Extension Service of the Department of Agriculture to maximize outreach impact.

Lending for Energy Production and Conservation Projects by Production Credit Associations, Federal Land Banks, and Banks for Cooperatives

Section 258 directs the Farm Credit Administration to encourage production credit associations, Federal land banks, and banks for cooperatives to use the existing authorities under the Farm Credit Act of 1971 to make loans for commercially feasible biomass energy projects.

Agricultural Conservation Program; Energy Conservation Cost Sharing

Section 259 amends Section 8 of the Soil Conservation and Domestic Allotment Act to authorize the Secretary of Agriculture to provide

cost sharing and technical assistance to farmers under the Agricultural Conservation Program in order to encourage energy conservation. Cost sharing and assistance would be provided for: (1) shelter belts to conserve energy on farmsteads and feed lots; (2) minimum tillage systems; (3) the efficient storage and application of manure and other wastes for land fertility and soil improvements; (4) the use of integrated pest management; (5) the use of energy-efficient irrigation water management; and (6) other land, water, and related resources management practices that the Secretary may determine to have significant energy conserving effects.

Production of Commodities on Set-Aside Acreage

Section 260 amends the Food and Agriculture Act of 1977 by adding, at the end, a new title XX containing one section designated as Section 2001 and entitled "Production of Commodities on Set-Aside Acreage".

New Section 2001(a) requires the Secretary of Agriculture to permit, subject to such terms and conditions as the Secretary prescribes, all or any of the acreage set aside or diverted from production for any crop year (under the Agricultural Act of 1949) to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor or other fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such conversion, is not likely to increase the cost of the price support programs, and will not adversely affect farm income.

The Agricultural Act of 1949 authorizes agricultural commodity price support operations, and set-asides and acreage diversion programs in connection with price support operations.

With respect to the uses to which alcohol produced from commodities grown on the set-aside acreage could be put, it is understood that new Section 2001 would permit the blending of such alcohol with gasoline or other fossil fuels for use as motor fuel or other fuels.

New Section 2001(b) (1), in years in which there is no set-aside or acreage diversion under the Agricultural Act of 1949, would authorize the Secretary of Agriculture to formulate and administer a program for the production of commodities for conversion into alcohol or hydrocarbons for use as motor or other fuel, subject to such terms and conditions as the Secretary may prescribe. Under the program, producers of wheat, feed grains, upland cotton, and rice would be paid incentive payments to devote a portion of their acreage to such production.

New Section 2001(b) (2) would require that payments under new Section 2001(b) be at fair and reasonable rates determined by the Secretary, taking into consideration the participation necessary to ensure an adequate supply of agricultural commodities for conversion into alcohol or hydrocarbons for use as motor or other fuels.

New Section 2001(b) (3) would authorize the Secretary of Agriculture to issue regulations to carry out the provisions of new Section 2001(b).

New Section 2001(b) (4) would authorize appropriations of sums as may be necessary to carry out the provisions of new section 2001(b).

Utilization of the National Forest System in Wood Energy Development Projects

Section 261 authorizes the Secretary of Agriculture to make available the timber resources of the National Forest System, in accordance with appropriate timber appraisal and sales procedures, for use by biomass energy projects. This provision is designed to clarify existing law. The Conferees believe that the use of wood and wood wastes and residues for the production of biomass energy can, consistent with the purposes of this Act, make a significant contribution in meeting our total energy needs.

Forest Service Leases and Permits

Section 262 states the intent of Congress that the Secretary of Agriculture process applications for leases of National Forest System lands and permits to explore, drill, and develop resources on land leased from the Forest Service, notwithstanding the current status of any land and resource management plan being prepared under Section 1 of the Forest and Rangeland Renewable Resources Planning Act.

SUBTITLE D—MISCELLANEOUS BIOMASS PROVISIONS

Use of Gasohol in Federal Motor Vehicles

Section 271 directs the President to issue an Executive Order requiring all Federal agencies which own or lease motor vehicles capable of using gasohol, to use gasohol where it is available at reasonable prices and in reasonable quantities. The President may include exceptions to this general requirement, such as where the operation of military vehicles would be adversely affected.

The "Report of the Alcohol Fuels Policy Review," issued by the Department of Energy in June 1979, referred to recent actions by the Administration in support of alcohol fuels. One major action was listed as "Federal fleet use of alcohol fuels where available". The Conferees understand that implementation of this policy was achieved in the form of a GSA directive and was never elevated to the force of an Executive Order.

The Conferees anticipate that the Order will provide exceptions for programs to test fuels other than gasohol in Federally owned or leased motor vehicles.

The Executive Order should also define to what extent gasohol must be available before the general mandate to use gasohol applies. For example, if the nearest gasohol supplier is such a distance away as to make travel to and from this supplier clearly result in increased overall petroleum consumption, then the purpose of this section would be defeated.

The Order should also define the term "gasohol" and what percentage blend or blends of alcohol and gasoline constitute "gasohol". In defining the specifications for the use of gasohol, the Order might also consider the minimum octane requirements for vehicles owned or leased by Federal agencies, so as to prevent octane underbuying, which may reduce the useful life of the motor vehicle, and octane overbuying which may result in unnecessarily high petroleum consumption at the gasoline refinery and in an unnecessarily high purchase price at the pump.

It is intended that this Section's reference to motor vehicles leased by Federal agencies is with respect to long-term leases and not, for example, with respect to one-day leases.

Motor Vehicle Alcohol Usage Study

Section 272 requires the Secretary of Energy in consultation with the Secretary of Transportation to submit within nine months after the date of enactment of this Act a report to the Congress on the use of alcohol as a fuel in motor vehicles. Specifically, the study would address the need for, and practicality of, mandating that new motor vehicles be capable of using alcohol as a fuel; legislative recommendations for removing barriers to the widespread marketing of alcohol; and other appropriate aspects regarding the use of alcohol as a motor fuel.

It is the intent of the Conferees that this study will examine the effects on the motor vehicle itself of the use of alcohol as a motor fuel, both as a blend with gasoline or as a pure fuel.

The Conferees anticipate that the Secretary of Energy will also consult with the Administrator of the Environmental Protection Agency in conducting this study, so as to include an assessment of the effects on the environment of increased use of alcohol as a motor fuel.

Natural Gas Priorities

Section 273 defines three uses of natural gas which for purposes of Section 401 of the Natural Gas Policy Act (Public Law 95-521) are each to be regarded as an "essential agricultural use." Section 401 of the Natural Gas Policy Act limits the extent to which a curtailment plan of an interstate pipeline may provide for the curtailment of deliveries of natural gas for any essential agricultural use.

The three uses of natural gas covered by this section are: (1) the use of natural gas in sugar refining for production of alcohol; (2) the use of natural gas for agricultural production on set-aside acreage or acreage diverted from the production of a commodity to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuels; and (3) the use of natural gas in the distillation of fuel-grade alcohol from food grains or other biomass.

The third use is limited to a five-year period and to existing plants which do not have the installed capability to burn coal lawfully.

It should be noted that the curtailment priority under Section 401 of the Natural Gas Policy Act is not applicable if the Federal Energy Regulatory Commission finds that an alternative fuel (other than natural gas) is available (see Section 401(b) of NGPA).

Standby Authority

Section 4 of the Emergency Petroleum Allocation Act directs the President to establish a mandatory allocation program for crude oil and petroleum products. The current gasoline allocation program is based on this authority.

Section 274 would authorize the President to allocate crude oil and gasoline in the marketplace so as to assure that there will be sufficient gasoline available to blend with any available quantities of alcohol suitable for use in gasoline. If the President finds that significant

quantities of alcohol are available and suitable for use in motor fuel, but are not being used for that purpose, then he is directed to exercise the authorities provided him under this section so as to permit the utilization of that alcohol in motor fuel.

The President's authority under this section would also extend to other refined products in addition to gasoline if they are available and suitable to be blended with alcohol for use as a motor fuel.

The Conferees intend that for purposes of this section the term "alcohol" includes any alcohol produced from any source, whether renewable or not, so that, for example, methanol made from coal would qualify as alcohol under this section.

TITLE III—ENERGY TARGETS

Preparation of Energy Targets

Section 301 requires the President to prepare and submit to Congress during the first week of February 1981, and every second year thereafter, specific energy targets (in quadrillion British thermal units per year) for net imports, domestic production and end-use consumption for the years 1985, 1990, 1995 and 2000. In preparing these targets the President must estimate the amount of conservation which will take place, the supply of energy from conventional sources and the energy production which will be available from new technologies. These targets must be submitted in the form of a table as prescribed in section 303.

This table would be composed of a mathematically consistent set of numbers describing the President's best estimate of projected supply, net importation and consumption of energy by energy source in each of the specified years. "Mathematical consistency" in this context means that the total energy supply (the sum of domestic production and imports less exports) must equal total energy consumption (the sum of end-use consumption and conversion loss).

The targets are required to be submitted for years in the future only. Thus, in 1986, targets would be submitted for 1990, 1995 and 2000 only.

The targets must be accompanied by a statement of the assumptions and supporting data upon which they are based. The conferees expect that these assumptions will include estimates of the uncertainties associated with any of the targets.

During the first week of February, 1982, and every second year thereafter, the President must transmit to Congress a comprehensive report on the targets transmitted in the previous year. This report will contain comments of appropriate Federal departments and agencies on the targets, including evaluation of the impact of any additional relevant information acquired in the previous year on the targets transmitted, recommended modifications in such targets and comments on modifications, if any, made in the targets as a result of Congressional consideration under this title.

In addition, such report should identify energy production, consumption, conservation, or other programs necessary to achieve the energy targets (or proposed revisions thereof); the strategies that should be followed and the resources that should be committed to implement these programs; a comparison between these strategies and the most recent plan or plans developed pursuant to title VIII of the Department of Energy Organization Act (42 U.S.C. 7321); and the legislative and administrative actions necessary to achieve the energy targets (or proposed revisions thereof) including recommendations on taxes or tax incentives, Federal assistance, regulatory actions, antitrust policy, foreign policy, and international trade policy.

In any year which is (or for which the previous year is) one for which targets have been set (1986, 1990, 1996 and 2000), the report submitted should discuss the reasons why any target established for such year is not likely to be achieved (or was not achieved).

Congressional Consideration

Section 302 sets forth the procedures for consideration of the targets by Congress during the 97th and 98th Congresses. Energy targets in the form specified in section 303 must be included in the general authorization legislation submitted by the President for civilian programs and activities of the Department of Energy for fiscal year 1982 (submitted in 1981) and for fiscal year 1984 (submitted in 1983) as a separate title at the end of each bill. This separate title would contain energy targets only.

The appropriate committees of the House and Senate must consider the targets when the Department of Energy authorization legislation containing the targets is considered. Such consideration would take place under whatever rules any such committee normally follows in the conduct of committee business, except only that amendments to the title which modify any target in a way which preserves the mathematical consistency of the table containing the targets are always in order. The conferees intend that rules of the House and Senate with respect to the referral of Department of Energy authorization legislation containing the title required by this section as they exist at the time the bill is introduced be applied and that appropriate referral of the legislation under those rules be made.

The requirements that a separate title containing energy targets be included in Department of Energy authorization legislation submitted by the President and that these targets be considered by Congress apply only during the 97th and 98th Congresses. A subsequent Act of Congress would be necessary to extend these requirements beyond the 98th Congress.

During the 97th and 98th Congresses amendments to the Department of Energy authorization legislation submitted with the separate title containing energy targets are in order as follows.

Such amendments to the title containing energy targets may only change one or more energy targets and then only in a manner which continues or achieves mathematical consistency within the targets contained in the table. Such amendments may not contain provisions other than provisions amending energy targets in this manner.

In the case that the Department of Energy authorization bill for fiscal year 1982 or 1984 does not contain a title setting forth energy targets in the form prescribed in section 303 (for example, because such title was deleted at some point after transmission of the bill by the President), it will always be in order to offer an amendment to such bill adding a title containing a mathematically consistent set of energy targets in such form. The question of whether any other amendment to an authorization bill containing a title setting for the energy targets is in order must be determined as if the title were not in the bill.

In the case that the Department of Energy authorization bill for these years does contain a title setting forth energy targets, it will always be in order to offer an amendment deleting the title.

In the 97th Congress a special procedure is established to provide an opportunity for Congress to adopt energy targets in the case that no Department of Energy authorization bill is reported in both the House and Senate by all respective authorizing committees by May 15, 1981 or, if one or more of these bills have been reported in either House by May 15, 1981, no committee which has reported such a bill by the May 15 deadline has reported such a bill including energy targets as a separate title. If either of these situations obtain any member of either House may introduce a joint resolution containing a mathematically consistent set of energy targets in the form prescribed in section 303.

Such resolution must be immediately referred to the appropriate committees which shall have until July 15, 1981 to consider and report the resolution. If the committees of the House or of the Senate have not reported the resolution by July 15, 1981, during a period of 20 calendar days of continuous session of Congress following that date any member may move to discharge such committees with respect to the resolution under the expedited procedures which apply to resolutions with respect to contingency plans under section 552 of the Energy Policy and Conservation Act (EPCA).

If the motion to discharge fails no such motion may be made with respect to that (or any other) joint resolution under the expedited procedures of EPCA. If the motion succeeds, the House in question would proceed immediately to the consideration of the resolution, and all other such joint resolutions would no longer be subject to consideration. Proponents of alternative sets of energy targets (whether or not embodied in one of the joint resolutions which may no longer be considered by virtue of the successful discharge motion) may offer amendments to the resolution named in the successful discharge motion.

These amendments must also continue or achieve mathematical consistency within the targets and may not contain any provisions other than provisions modifying one or more energy targets in this manner.

General debate on any joint resolution reported or discharged, petition is limited to not more than 3 hours.

For purposes of this section a Department of Energy authorization bill means the general authorization legislation for the civilian programs and activities of the Department of Energy which is normally submitted by the executive branch early in each session of Congress authorizing appropriations for the fiscal year beginning in October of that session. This term does not include supplemental authorization bills which may be submitted.

Energy Target Form

Section 303 sets forth the form of the table in which the energy targets referred to in this title must be displayed and includes certain definitions to clarify the terms appearing in the table.

General Provisions Regarding Targets

Subsection 304(a) states that any resolution or Act enacted which contains energy targets as prescribed in this table shall be considered a statement of rational goals but shall not have legal force or effect.

Subsection : 1(b) requires that funds for preparation of energy targets and reports under this title shall be drawn from funds otherwise available to the Department of Energy. The conferees expect that the work associated with the preparation of these targets and reports will be carried out by employees of the Department responsible for policy development and evaluation. The use of contracting assistance is to be minimized and the nature of any such assistance which is used is limited in certain specific ways.

The preparation and transmission of energy targets shall not be considered a major Federal action for the purposes of the National Environmental Policy Act of 1969.

TITLE IV—RENEWABLE ENERGY INITIATIVES

Short Title

Section 401 cites this Title as "The Renewable Energy Resources Act of 1980".

Purpose

Section 402 states that the purpose of this Title is to promote and encourage the use of renewable energy resources and conservation through the establishment of various new programs and amendments to existing law.

Definition

Section 403 defines the terms "Secretary" and "renewable energy resource".

Coordinated Dissemination of Information on Renewable Energy Resources and Conservation

Section 404 requires the Department of Energy to coordinate its solar and conservation outreach activities and report annually to Congress on their status and the status of the efforts of the Department to coordinate with similar outreach activities conducted by other agencies.

The Conferees intend that the Secretary make whatever criteria are used in the evaluation of coordination activities explicit.

Establishment of Life-Cycle Energy Costs for Federal Buildings

Section 405 amends Sec. 545 of the National Energy Conservation Policy Act to specify that in establishing methods for estimating and comparing life cycle costs of conventional heating, cooling and hot water systems with solar heating, cooling and hot water systems and energy conservation measures for Federal buildings, the Secretary must use: (1) the sum of all capital and operating expenses associated with the energy system of the building over the expected life of the system or a period of 25 years (whichever is shorter), (2) a 7 percent discount rate, and (3) marginal fuel costs as determined by the Secretary.

The Conferees intend that "marginal fuel costs" are the marginal costs which a customer would pay for fuel or energy available in the region of the country where the Federal building is located.

Energy Self-Sufficiency Initiatives

Section 406 creates a 3-year pilot energy self-sufficiency program within the Department of Energy to demonstrate self-sufficiency through the use of renewable energy resources in one or more States in the United States. As part of this program, the Secretary is to take steps to promote and encourage self-sufficiency initiatives. The Secretary must prepare within 180 days of enactment of this Act, a detailed plan which includes a description of any additional Federal actions needed to encourage and promote energy self-sufficiency programs.

Photovoltaic Amendments

Section 407 contains several amendments to the Federal Photovoltaic Utilization Act. These amendments expand the definition of "Federal facility" to include facilities related to programs administered by Federal agencies, provide the authority to allow an agency to make procurements under this Act of photovoltaic systems for that agency's use, and exempt the development of program criteria from the rule-making requirements and certain other procedures of the Administrative Procedures Act.

Small-Scale Hydropower Initiatives

Section 408 amends the definition of "small hydroelectric power project" in Title IV of the Public Utility Regulatory Policies Act (PURPA) by increasing the 15 megawatts limitation to 30 megawatts and by expanding the interpretation of "at the site of" or "in connection with" an "existing dam" to include projects which are located at sites where there is no need for an impoundment structure. Additionally, the bill allows the Federal Energy Regulatory Commission (FERC) to grant exemptions on a case-by-case basis or by class or category from licensing requirements from small hydroelectric power projects under 5,000 kilowatts. Such exemptions are subject to the limitations which apply to the exemption of manmade conduit projects from Federal licensing requirements in PURPA.

The Secretary of Energy is required to promulgate rules and regulations to implement certain provisions of this section and the loan program in Sec. 403 of the Public Utility Regulatory Policies Act within six months of the date of enactment of this Act. The Secretary is also required to prepare a study of existing Federal small-scale hydropower programs.

It is not intended that FERC issue new regulations which in any way slow the permitting process now used by FERC. Additionally, the Conferees would expect that FERC would revise existing permitting procedures so that the provisions of this section do not slow the permitting of qualified projects.

The conferees intend that, in granting an exemption from license requirements, the Federal Energy Regulatory Commission will reach its determination only after full compliance with the requirements of the Fish and Wildlife Coordination Act, the National Environmental Policy Act, the Endangered Species Act, and any other provision of Federal law. Further, the conferees do not intend that an exemption be granted without careful consideration of the full implications of such an exemption. In addition, in any case where an applicant wishes to obtain a license, that applicant is entitled to go through the full licensing process and (if qualified under applicable law and regulation) to obtain the license even though an exemption has been granted for the project or the class of projects involved.

In considering a license application for a small hydroelectric project at a site not needing any dam or impoundment, the conferees expect the Federal Energy Regulatory Commission to insure that the use of such site for electrical power production will not have any adverse effect upon the natural water features at the site, including water flow and water level, or on fish and wildlife.

Authorizations

Section 409 authorizes \$10 million for loans for small-scale hydro-power projects under Sec. 402 of the Public Utility Regulatory Policies Act and \$100 million for loans under Sec. 403 of the Public Utility Regulatory Policies Act for Fiscal Years 1981 and 1982. Additionally, \$10 million is authorized for Fiscal Year 1981 to carry out the self-sufficiency initiatives in Sec. 406 of this Title.

TITLE V—SOLAR ENERGY AND ENERGY CONSERVATION

Section 501 provides that this title may be cited as the "Solar Energy and Energy Conservation Act of 1980".

SUBTITLE A—SOLAR ENERGY AND ENERGY CONSERVATION BANK

Short Title

Section 502 provides that this subtitle be cited as the "Solar Energy and Energy Conservation Bank Act".

Purpose

Section 503 states that the purpose of the subtitle is to establish a Solar Energy and Energy Conservation Bank in order to encourage energy conservation and the use of solar energy and to reduce thereby the nation's dependence upon foreign sources of energy supply.

Definitions

Section 504 provides definitions of terms used in the subtitle.

The conferees intend that the term "residential building" primarily apply to buildings having year-round occupancy, so that the ratio of energy savings to Federal assistance is maximized.

The Conferees wish to clarify with respect to the definition of "commercial building" that "non-profit business" includes non-profit entities such as churches, but does not include government-owned buildings used for the general functions of government.

The Conferees wish to clarify that, with respect to the definition of "residential and commercial energy conserving improvements," the words "planning and technical services" include services such as architectural and engineering services.

Additionally, the Conferees recognize that many new products which have great potential for energy savings in residential and commercial buildings, and which are under development or already being marketed, have not been included on the list of qualified items. (One example is a heat pump water heater.) The Conferees expect the Board will rely on DOE and HUD to determine the reliability, safety, and performance of such new energy conserving improvements and further expect the Board will develop a mechanism for moving expeditiously to add to the list of subsidizable energy conserving improvements those items which meet established standards and which will contribute significantly to reducing energy use.

With respect to the definition of "solar energy system", it is expected that any system which contains the following components will be considered a passive solar system: a solar collection area, a hard absorber surface, a storage mass capable of retaining heat, a heat distribution method, and a means to regulate heat to prevent overheating and solar energy loss. Any regulations identifying a passive system are not to exclude systems which do not include all five components but

do comply with such criteria and standards as the Board may determine. The Conferees expect the Bank to be responsive to and to encourage new developments in passive and active solar designs and products and to develop a process by which these new concepts and products can be qualified for assistance as rapidly as possible. Since some of the newer passive technologies may not fit neatly into the five recognition factors listed above, it is expected that from time to time the Bank will inform financial institutions of alternative technologies which qualify for assistance.

The definition of "solar energy system" is purposefully broad in order to include any solar technology likely to be commercially available during the life of the Bank. Some technologies such as photovoltaics and other solar electric devices are presently in transition from a developmental phase and may not be currently commercially viable in all applications. The Conferees expect the Bank, during its first years of operation, to focus on subsidizing commercially viable solar technologies and to specify the circumstances under which products presently under development could be considered commercially viable and eligible for subsidy. The criteria developed by the Bank are not to discriminate against simple passive or hybrid solar energy systems.

The term "financial institution" is intended to include State and local governments providing loans for housing, rehabilitation, conservation or solar improvements, and other entities such as Neighborhood Housing Services.

Furthermore the Conferees expect that in addition to utilities which participate in the Residential Conservation Service Program established in Title II of the National Energy Conservation Policy Act (NECPA), any other utility could qualify as a financial institution if it meets the qualifications as designated by the Board.

Additionally, nothing in this subtitle should be considered to affect any activities conducted by utilities in accordance with any other law. This subtitle extends only to their activities as financial institutions.

PART 1—ESTABLISHMENT AND OPERATION OF THE BANK

Establishment of the Bank

Section 505 establishes the Solar Energy and Energy Conservation Bank in the Department of Housing and Urban Development and provides the Bank with the same corporate powers as those of the Government National Mortgage Association. The Bank will cease to exist after September 30, 1987.

The General Accounting Office is directed to report on the transactions of the Bank within two years of the establishment of the Bank and each three years thereafter.

The Bank may impose fees and charges on the deposits and withdrawals into the miscellaneous

Board Secretary shall be the President of the Bank. The Board is directed to carry out the functions of the Bank and adopt regulations, subject to the provisions of Section 7(o) of the Department of Housing and Urban Development Act, which provide a procedure for the review of such regulations by the Banking Committees of the House of Representatives and the Senate. The Board is required to provide such information as the Secretary of the Treasury determines is necessary to insure that, for the same solar energy or energy conservation expenditure, no individual is allowed both a credit against taxes under Section 38, or Section 44C, of the Internal Revenue Code of 1954 and financial assistance available under this subtitle from the Bank.

The Conferees intend that the administration of the solar and conservation programs be performed jointly where appropriate for efficiency but separately where necessary as a result of program differences.

Additionally, the Board of Directors is authorized to establish general levels of assistance and should establish broad guidelines for the Bank. However, the Conferees expect that the Board will not engage in consideration of minute details of the Bank's operations.

It is the agreement of the conferees that the Congressional review provisions should apply only to the regulations of the Bank. No Congressional review provisions apply to any DOE programs or to any other programs of this Title.

Officers and personnel

Section 507 establishes in the Department of Housing and Urban Development the position of President of the Bank, appointed by the President of the United States with the advice and consent of the Senate and compensated at the rate prescribed for Executive Level V. The Bank President shall appoint Executive Vice Presidents for Energy Conservation and Solar Energy, paid at a rate set by the Board and having the functions, powers, and duties prescribed by the President of the Bank. Subject to Board direction, the President of the Bank shall manage and supervise the affairs of the Bank with the assistance of the Executive Vice Presidents and shall perform such other functions as the Board may prescribe. If permitted by the Secretary of Housing and Urban Development, the Bank may use the services or personnel of the Department of Housing and Urban Development.

The Conferees intend that all conflict of interest laws and regulations applying to employees of HUD will apply to all employees of the Bank.

Advisory Committees

Section 508 establishes two advisory committees, an Energy Conservation Advisory Committee and a Solar Energy Advisory Committee. The five members of each committee would be appointed by the Board and no member could be an officer or employee of any governmental entity.

Four members of each committee shall include a representative of consumers, of financial institutions, of builders, and of architectural or engineering interests. The Energy Conservation Advisory Committee, which shall advise the Board regarding Bank activities related to residential and commercial energy conserving improvements, shall

include a fifth member representing producers or installers of such improvements. The Solar Energy Advisory Committee, which shall advise the Board regarding Bank activities related to solar energy systems, shall include a fifth member representing the solar energy industry. The first committee members appointed to represent consumers and financial institutions shall be appointed for a three-year term while all other members, including all subsequent consumer or financial institution representatives, shall be appointed for two years. This section also establishes the process for filling committee vacancies and the rate of compensation for members performing committee duties. Three members of each committee constitute a quorum; however, hearings may be held by a lesser number. The Chairman of each committee shall be elected by the committee members and these committees shall not terminate until the Bank terminates.

It is the Conferees' intent that the member of the Solar Energy Advisory Committee representing the solar energy industry be knowledgeable about the various solar applications covered by the program established in this subtitle and the member representing the architectural or engineering field be knowledgeable about passive and hybrid solar energy systems. Any consumer representative appointed to the Advisory Committees should be able to represent the views of low-income persons as well as of the general public.

Provision of financial assistance

Section 509 establishes, subject to conditions and limitations contained in Sections 513 through 517, who may receive financial assistance, what kind of activities will qualify for assistance and what form of financial assistance may be provided. The Bank may make payments to financial institutions for the purpose of providing financial assistance: (a) to owners of and tenants in existing residential and multifamily residential buildings for the purchase and installation of residential energy conserving improvements in those buildings; (b) to owners who occupy and tenants in existing commercial and agricultural buildings for the purchase and installation of commercial energy conserving improvements; (c) to owners of existing buildings for the purchase and installation of solar energy systems; (d) to builders of newly constructed or substantially rehabilitated residential buildings that will contain solar energy systems; and (e) to purchasers of new or substantially rehabilitated buildings containing solar energy systems. The financial assistance for solar energy systems or energy conserving improvements may be in the form of a reduction in the principal obligation of a loan or the qualifying portion of a loan or a prepayment of the interest otherwise due on such loan or portion of such loan. In the case of an owner of an existing residential building or a tenant in an existing residential or multifamily residential building, the assistance for residential energy conserving improvements may be in the form of a grant.

Financial assistance may only be provided for solar energy systems installed after the date of enactment of this subtitle. A similar restriction applies to financial assistance for energy conserving improvements. However, during the 90-day period following the date of promulgation of regulations governing the provision of financial assistance, such assistance may also be provided for residential and commercial energy conserving improvements which were financed with a

loan made between January 1, 1980 and the date of enactment of the subtitle, provided that the person receiving such assistance has not applied for or received any tax credit allowed by Section 38 or 44C of the Internal Revenue Code of 1954 for the expenditure that would otherwise qualify for assistance under this provision. Any individual receiving any financial assistance from the Bank shall not include such assistance as gross income or as an increase in the basis of any real property.

The Conferees expect that any payment made by the Bank to a financial institution with respect to any loan or qualifying portion of a loan will be made in the form of a lump sum payment.

The Conferees would like to clarify that in the case of a loan which finances more than a solar energy system or an energy conserving improvement, only that portion of the loan attributable to the system or improvement may qualify for assistance.

Establishing levels of financial assistance

Section 510 provides that the Board shall, from time to time, establish the various levels of financial assistance provided under Section 509, subject to the maximum allowable amounts permitted under Sections 511 and 512. In establishing such levels, the Board is to consider a variety of factors including at least: the prevailing market rates of interest for various types of loans and bonds; the availability of other federal incentives (including tax credits for energy conservation and solar energy system expenditures); costs and efficiencies of non-renewable energy resources and systems, energy conserving improvements, and solar energy systems; and the levels of subsidy needed to induce owners and tenants from various income groups to purchase and install solar energy systems and energy conserving improvements in buildings, and to induce the purchase of newly constructed or substantially rehabilitated buildings which include solar energy systems.

The Conferees intend that the Board minimize the frequency with which the levels of assistance are altered for either the solar or conservation program so as to maximize continuity in the administration of the programs.

Maximum amounts of financial assistance for residential and commercial energy conserving improvements

Section 511 establishes the maximum amounts of financial assistance which may be provided for the purchase and installation of residential or commercial energy conserving improvements. These maxima are summarized in the following table:

MAXIMUM ASSISTANCE LEVELS FOR RESIDENTIAL OR COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

Building type	Assistance as percentage of improvement cost	Maximum assistance			
		1 unit	2 unit	3 unit	4 unit
(1) 1 to 4 unit residential buildings:					
Income of owner or tenant:					
Less than 80 percent of area median.....	50 percent up to.	\$1,250	\$2,000	\$2,750	\$3,500
80 to 100 percent of area median.....	35 percent up to.	875	1,400	1,925	2,450
100 to 120 percent of area median.....	30 percent up to.	750	1,200	1,650	2,100
120 to 130 percent of area median.....	20 percent up to.	500	800	1,100	1,400
(2) Multifamily residential building: No income differential for owner or tenant.	20 percent up to.	\$400 per dwelling unit			
(3) Agricultural or commercial building: Gross annual sales of owner who occupies buildings or tenant may not exceed \$1,000,000.	20 percent up to.	\$5,000 per building			

The Conferees expect that in establishing the median income for an area, the Board will rely on the data developed by the Department of Housing and Urban Development and used for establishing the median income for the area in the program authorized by Section 8 of the U.S. Housing Act. It is also expected that for the purposes of receiving assistance a person's income will be treated as it is under Section 8 of the U.S. Housing Act and shall include a total of the income of all members of the household.

The amounts of assistance prescribed in this section are the maximum total subsidy amounts available for conservation expenditures to persons in various income groups. In order to encourage individuals to increase such investments, the Bank may structure the incentive so that within these limits the subsidy percentage will increase as the amount of the investment increases. For instance, in the case of an individual whose income is between 120-150 percent of area median, the Bank could provide a maximum subsidy of 15 percent of the first \$750 expenditure, 20 percent of the next \$1,000 expenditure and 25 percent of the next \$750 expenditure, for a total subsidy of \$500 on a \$2,500 expenditure.

However, in providing assistance to low-income families, the Board should not apply a sliding subsidy scale. The maximum percentage subsidy level set by the Bank for these families should be available for those persons even for small investment amounts. The Conferees are concerned, however, that whatever subsidy variation system the Board determines is needed to induce persons from various income groups to purchase and install energy conserving measures should be designed so that local financial institutions will not be discouraged from participating by the complexity of the system.

Maximum amounts of financial assistance for solar energy systems

Section 512 establishes the maximum amounts of financial assistance which may be provided for the purchase and installation of solar energy systems. The following table summarizes these maximum amounts:

MAXIMUM ASSISTANCE LEVEL FOR SOLAR ENERGY SYSTEMS

Building type	Assistance as percentage of system cost	Maximum Assistance			
		1-unit	2-unit	3-unit	4-unit
(1) 1 to 4 unit residential building					
Income of owner or purchaser:					
Less than 80 percent of area median.....	60 percent up to.	\$5,000	\$7,500	\$10,000	\$10,000
80 to 160 percent.....	50 percent up to.	5,000	7,500	10,000	10,000
Above 160 percent of area median.....	40 percent up to.	5,000	7,500	10,000	10,000
(2) 1-4 unit new or sub-rehab residential building: Builder.....	40 percent up to.	5,000	7,500	10,000	10,000
(3) Multifamily residential building:					
In general.....	40 percent up to.		\$2,500 per dwelling unit		
Except owner of building where majority of tenants have incomes below 80 percent of median.	60 percent up to.		\$2,500 per dwelling unit		
(4) Agricultural or commercial buildings.....	40 percent up to.		\$100,000 per building		

The amount of assistance available for a passive solar energy system will be based on the estimated amount of energy saved by the use of such system. It is recognized that cost-of-system estimates for passive solar may be difficult to establish, and that percentages based on cost as in the above table may be meaningless. It is expected that the Bank will establish a financial assistance scheme for passive solar

that varies with the percentage of energy saved and remains within the dollar ceilings for each type of building as indicated in the table above.

After January 1, 1983, the Bank will be required to vary financial assistance for active solar systems by the amount of energy such systems will save, unless the Board determines this is not practicable. This variation is to be accomplished within both the percentage and dollar limitations outlined in the table above.

The determination of whether it is practicable to apply the energy efficiency principle to active solar energy systems should be based, among other factors, upon whether a reliable industry-wide energy efficiency rating system is in place and whether the Bank can develop an uncomplicated method of applying this concept to active solar systems. It is not the intent of the Conferees that the energy efficiency test act as an impediment to the acceptance of solar systems either it is the intent of the Conferees that persons purchasing solar energy systems should be encouraged to purchase those systems that would save the greatest amount of energy.

It is the intent of the Conferees that every savings are to be estimated using the difference on an annual basis between 1) the amount of oil, gas, electricity or other conventional fuels required to meet the heating/cooling load of the solar equipped buildings, and 2) the amount of such fuels required to meet the heating/cooling load of a reference residential building in a similar location. No assistance in excess of the amounts specified in subsection (a) of this section shall be provided. Additionally, the conferees intend that the installation of a solar energy system on an existing building does not constitute *per se* a substantial rehabilitation of the building.

General conditions on financial assistance for loans

Section 513 establishes various conditions which must be met if financial assistance is to be provided under this program. In the case of prepayment of interest by the Bank, a financial institution must agree to repay to the Bank that portion of such prepayment which is in excess of the actual interest due on the loan at the time the borrower fails to meet his or her obligation under the loan; the Bank may waive the repayment where such excess is minimal. In addition, each borrower receiving an assisted loan must agree to certify to the financial institution, immediately after completion of the installation of energy conserving improvements or a solar energy system, that the proceeds of such loan have been used for such improvements or systems and that such installation has been completed; such certification shall be available to the Bank.

The Conferees expect that an applicant who qualifies for both solar and conservation subsidies will be able to receive assistance through a single loan transaction.

The Bank is directed not to establish security requirements for small loans for energy conserving improvements that would effectively prohibit low-income families from being able to borrow under this program and is directed to require assurances that any financial institutions providing loans pursuant to this program would not set a minimum loan requirement greater than \$600 where a borrower requests a loan term of less than five years.

In addition to the individual loan repayment requirement in paragraph 513(3). The conferees intend that where the Bank determines that a pattern of "bad loans" is developing in a given area, with certain lenders or particular technologies, the Bank should impose a repayment requirement similar to the one contained in section 513(3). However, the Bank should consider appropriately the potential chilling effect any such terms and conditions may have on participation by lenders in the solar program. Any such requirements should not be adopted generally on a nationwide basis, but rather should be applied to a specific area, lender or technology.

Conditions on financial assistance for residential and commercial energy conserving improvements

Section 514(a) establishes conditions which must be met on loans made in connection with the provision of financial assistance for the purchase and installation of residential or commercial energy conserving improvements. These conditions include a minimum and a maximum loan term, a one-year warranty to be provided by the manufacturer, supplier and installer, and where a loan is made to a tenant, an agreement in writing by the owner of the building that the residential or commercial energy conserving improvements may be installed. Any building in which the energy conserving improvements are installed must be an existing building, completed before January 1, 1980. Before a loan is made for residential energy conserving improvements, the financial institution must inform the borrower of the availability of residential energy audits. Before a loan is made for commercial energy conserving improvements, a borrower must provide to the lending institution a copy of a commercial energy audit previously conducted for such building. Finally, no loan may be made to a tenant or an owner who occupies a commercial or agricultural building unless the owner or tenant has gross annual sales of \$1 million or less, based upon the total annual sales achieved in the accounting year used by the owner or tenant.

The conferees have provided requirements for warranties to assure that borrowers and grantees will be protected against poor quality of energy conserving improvements and solar energy systems assisted under this subtitle. There is a considerable body of Federal and State law which governs warranties. Some of these laws applicable to warranties may operate to prevent the offering of the minimum warranty set forth here. The conferees intend that these laws, or portions thereof, will be superseded only to the extent necessary to make them consistent with this subtitle. Therefore, any right, remedy, or other requirement in Federal or State law would still apply, unless such right, remedy or requirement was inconsistent with the requirements of this section. For example, section 111(d) of the Moss-Magnuson Warranty Act renders the warranty requirements of that statute inapplicable to any written warranty "the making or content of which is otherwise governed by Federal law". Nothing in the Moss-Magnuson Warranty Act is inconsistent with a requirement that the minimum warranties specified in this subtitle be offered. Hence, that Act and the Federal Trade Commission's rules under that Act would continue to apply.

Finally, it should be emphasized that persons involved with the programs of the Bank are free to offer any warranty they desire, con-

sistent with applicable State and Federal law, as long as this warranty meets or exceeds the minimum requirements of this section.

There is no intention by inclusion of these warranty provisions to specify or otherwise affect arrangements which may be made among manufacturers, suppliers, and contractors with respect to transportation, storage or maintenance. The purpose of these provisions is to insure that the borrower or grantee have at least the warranty protection set forth in these provisions.

The conferees intend that a supplier could satisfy the warranty requirement by an assignment of the manufacturers warranty to the person to whom the system or improvement is supplied.

Section 514(b) also establishes conditions on financial assistance in the form of grants. A grant may be made only to an owner or tenant whose income does not exceed 80 percent of the median income for the area to help finance the installation of energy conserving improvements in a residential or multifamily residential building which was constructed before January 1, 1980.

The grantee must certify to the financial institution that financial resources are available which when added to the grant will be sufficient to pay for the total cost of the residential energy conserving improvements. The conditions include the requirements that: the total cost of the installed residential energy conserving improvements must exceed \$250; any supplier or contractor selling or installing any residential energy conserving improvements and paid by the grantee for such work must be included on the state residential conservation service list distributed by utilities as required under Section 213(a) of the National Energy Conservation Policy Act; the financial institution distributing the grant must inform the owner or tenant of the availability of residential energy audits; any tenant must get agreement in writing from the building owner regarding the installation of energy conserving improvement with the grant proceeds; and any grantee must agree to certify to the financial institution immediately after completion of the installation of the improvements, that such purchase and installation has been accomplished. This certification shall be available to the Bank if the Bank so requests. Finally, any residential energy conserving improvement purchased and installed with the grant must be covered by the same warranties as required for improvements purchased and installed with an assisted loan.

With respect to the grant program established in this title, the Conferees are concerned that the Bank design the program so that the administrative costs will be held to a minimum while assuring that financial institutions will be compensated for the reasonable costs of participating in the program. In this context, the Bank should determine the frequency with which any individual may apply for additional assistance up to the maximum permitted by statute.

The Conferees intend that the Bank adopt the following approach for the operation of the grant program: require that a grant applicant provide the lending institution with his or her share of the cost of the conservation improvements or provide certification from a source of alternative financing that such share will be available at the time of final disbursement of the grant by the financial institution to the installing contractor upon completion of the installation; and for

grant applicant who will perform the work or purchase the materials directly, require that the applicant provide similar assurances with respect to his or her share of the cost and that the financial institution shall provide the grant by means of check (or other comparable disbursement) payable to the supply company or companies from which such person has arranged to purchase conservation materials.

When residential energy conserving improvements have been purchased and installed by an owner or a tenant prior to applying for a grant, certification of the purchase and installation should be provided by the owner or tenant upon receipt of the grant. The conferees intend that the certification cover both the grant and the matching financial resources provided by the grant recipient. However, the conferees do not anticipate that post-installation certification by the owner and tenant is an adequate mechanism, in and of itself, to protect the grant program from fraud on the part of grantees. The conferees expect the Bank grant delivery system to provide such protection.

The Bank may design an alternative delivery system to be used by financial institutions which protects against fraud and abuse, minimizes administrative expenses, and is sufficiently simple to not be a deterrent to either financial institutions or to prospective grantees.

Additionally, individuals receiving grants would not be required to make a normal loan application but rather would be required to complete a simple form including at least the grantee's name, the address and owner of the house to be weatherized, the individual's income, a list of the materials to be purchased, their cost and estimated labor costs, the name of the contractor (if any), and a declaration that the grant will be used to pay for the materials and labor listed and that the information on the form is true and correct. The simple form should not require a declaration of current debts, savings, property owned, or other such information normally needed by the financial institution to establish credit and collateral for a loan.

Conditions on Financial Assistance for Solar Energy Systems

Section 515 establishes conditions applying to loans made for a solar energy system or for newly constructed or substantially rehabilitated buildings containing such systems. These conditions include the requirement that unless the borrower requests a shorter term, the loan repayment may not be less than 5 years nor more than 30 years for a residential building and may not be less than 5 years nor more than 40 years for a multi-family, agricultural or commercial building, except in the case of a loan to a builder where no minimum term shall apply. No prepayment penalty may be charged on any such loan. The solar energy system purchased and installed with such loan must be covered by a warranty requiring the manufacturer to remedy without charge any manufacturing, design or material defects that become evident within 3 years from the purchase date, requiring the supplier to make a warranty equivalent to the manufacturer's warranty except that the warranty period shall be one year, and requiring the installer to remedy any manufacturing, design, material or installation defects that become evident within one year of installation. The Board may require a longer warranty period and may require the installer to conduct an on-site inspection of the system during the 15-day period prior to the expiration of the installation warranty.

In addition, a purchaser or builder of a newly constructed residential or multifamily residential building must provide certification to the lending institution that the building meets or exceeds cost-effective energy conservation standards established by the Secretary of Housing and Urban Development. Finally, no assistance may be made to an owner of an existing residential building after December 31, 1985, if the income of the owner exceeds 250 percent of median area income.

The Conferees intend that with respect to the establishment of requirements for cost-effective energy conservation standards pursuant to paragraph 513(a)(6), the HUD Minimum Property Standards (and any amendments to the minimum property standards dealing with energy conservation and solar energy requirements which are in effect as of the date of the loan application) are appropriate cost-effective standard to be used by the Bank. Additionally, the Conferees expect that in establishing these requirements, the Secretary of HUD will consult with the Board, DOE, National Bureau of Standards, National Institute of Building Sciences, the Department of Agriculture and any other Federal agency with expertise or interest in the establishment of such requirements.

Section 515(b) provides that financial assistance may be provided to a builder for the purchase and installation of a solar energy system in a newly constructed residential building, if certain findings and conditions are met. The Board must make three findings: First, that in order to encourage the construction or substantial rehabilitation of a greater number of single family residential buildings containing solar energy systems, financial assistance must be provided directly to builders; second, that providing such assistance directly to builders is a more effective expenditure of the Bank funds than providing assistance only to the purchasers of the newly constructed or substantially rehabilitated homes; and third, that in consultation with the Treasury Secretary, the Board is able to establish a procedure which will prevent the purchaser who buys the home built by a builder receiving direct assistance from the Bank, from receiving additional assistance from the Bank, or from being allowed a tax credit under Sections 38 or 44C of the Internal Revenue Code of 1954 for the same solar energy system expenditures.

If the Board is able to make these determinations and establishes direct builder assistance, the Board must establish a procedure to prevent both the purchaser and the builder from receiving financial assistance or a tax credit for the same expenditure. The builder would also be required to disclose to the purchaser of the home at the time of signing the sales contract for the home, the amount of the solar energy system expenditures for which the builder received assistance from the Bank and would have to inform the purchaser that he may not be allowed a federal tax credit for those assisted expenditures. In addition, the builder must provide to the Bank any information the Board, in consultation with the Treasury Secretary, determines is necessary to comply with such restriction. Finally, for purposes of the Federal solar energy tax credit, any expenditures made by a builder which receive Bank assistance shall be considered expenditures from subsidized energy financing by the purchaser of that home.

For the purposes of developing procedures to prevent double subsidization of expenditures, the Board should examine existing State programs developed for this purpose.

Sections 515 (c) and (d) establish two other conditions on providing Bank assistance for solar energy systems. The first permits such assistance to be made available through utilities only for the purchase and installation of solar energy systems in existing buildings. The second requires that in providing financial assistance with respect to loans for newly constructed and substantially rehabilitated single family residential buildings containing solar energy systems, the Board shall establish a priority for those buildings that contain at least a solar space heating or cooling system, except in areas or regions of the United States where it is impractical or inefficient to do so. The conferees expect it would be impractical or inefficient to establish such a priority where such priority would constitute a disincentive to market penetration of independent solar hot water systems, or where heating or cooling systems would be impractical due to the regional climatic conditions or other factors. This priority does not preclude the provision of subsidies to buildings containing only a solar hot water system but does reflect the concern of the Conferees that when new buildings are constructed, architects and builders should be encouraged to include solar heating or cooling systems.

Limitations on the Provisions of Financial Assistance for Residential and Commercial Energy Conserving Improvements

Section 516 states that not less than 80 percent of the funds appropriated in any year to provide financial assistance for energy conserving improvements shall be allocated for residential energy conserving improvements in single and multifamily residential buildings and not less than 15 percent of the total amount of the appropriation for energy conserving improvements shall be allocated to assist residential and multifamily residential buildings occupied by persons whose incomes are 80 percent of area median or less.

Funds made available for low-income persons which are not expended in any fiscal year shall be available for any qualifying individual during the following fiscal year.

The Conferees intend the 15 percent set-aside for assistance to low-income persons for residential and commercial energy conservation improvements be regarded as a minimum and that the Bank should increase the percentage if the needs of low-income persons can be better served.

Limitations on the Provision of Financial Assistance for Solar Energy Systems

Section 517 establishes limitations on the use of funds for solar energy systems. No more than 10 percent of the annual appropriation for solar energy assistance may be passed through utilities except that the Board may increase this amount to not more than 20 percent if such an increase will further the purpose of this subtitle. In addition, not less than 70 percent of the funds appropriated in any year to provide financial assistance for solar energy systems shall be allocated to residential and multifamily residential buildings.

Not less than 5 percent of the funds appropriated during any fiscal years shall be allocated for residential buildings owned by individuals whose income is below 80 percent of area median and for multifamily buildings with a majority of low-income occupants. Failure to provide financial assistance under the low-income allocation shall not delay the provision of other financial assistance under this subtitle and funds made available for financial assistance to low-income persons which are not expended in any fiscal year shall be available for the provision of financial assistance to any qualifying individual during the following fiscal year.

For purposes of determining whether a multifamily building contains a majority of low-income tenants, the Conferees intend that income certification procedures for tenants of such buildings be developed to be consistent with existing HUD procedures for such certifications.

Promotion

Section 518 authorizes the Bank to conduct a promotional program related to the Bank activities which does not duplicate the promotion activities conducted by other Federal agencies but which is designed to complement those activities.

Reports

Section 519 directs the Board to submit an annual report to Congress regarding the operations of the Bank and the impact of its programs on the increased use of solar energy systems and energy conserving improvements. Within two years of enactment, the Board is also to report on the effects of limiting the amount of Bank funds available through utilities for solar energy systems.

The Conferees intend that the Bank utilize, to the maximum extent feasible, the expertise of HUD and DOE in performing the analyses required by this section.

Rules and Regulations

Section 520 directs the Board to issue final rules and regulations, including those necessary to prevent fraud, within six months from the date of enactment, except that rules and regulations applying to multifamily residential, commercial and agricultural buildings need not be promulgated until nine months after the date of enactment.

It is the Conferees' intent that the later deadline for issuing rules and regulations with respect to multifamily residential, commercial, and agricultural buildings not delay the Bank's commencement of operations with respect to residential buildings.

Penalties

Section 521 provides that any person who knowingly makes a false statement, or misrepresents a material fact with respect to financial assistance provided by this subtitle, or fails to make disclosure or statement as required, shall be fined no more than \$10,000 or imprisoned not more than one year, or both, for each offense.

Funding

Section 522 : to be appropriated to provide financial assistance for the purchase and installation of solar energy systems the

following amounts: \$100 million for fiscal year 1981; \$200 million for fiscal year 1982; and \$225 million for fiscal year 1983.

Of those amounts, no more than \$10 million for fiscal year 1981 and no more than \$7.5 million in each of fiscal years 1982 and 1983 may be used for the promotional activities of the Bank that relate to solar energy systems.

The following amounts are authorized to be appropriated to provide financial assistance for the purchase and installation of residential and commercial energy conserving improvements: \$200 million for fiscal year 1981; \$625 million for fiscal year 1982; \$800 million for fiscal year 1983; and \$875 million for fiscal year 1984.

Of these amounts, not more than \$10 million for fiscal year 1981 and not more than \$7.5 million in each of fiscal years 1982, 1983, and 1984 may be used for the promotional activities of the Bank that relate to residential and commercial energy conserving improvements.

PART 2—SECONDARY FINANCING

Authority of Solar Energy and Energy Conservation Bank to Purchase Loans and Advances of Credit for Residential Energy Conserving Improvements or Solar Energy Systems

Section 531 amends Section 315 of the Federal National Mortgage Association Charter Act by deleting the provisions in existing law under which the HUD Secretary is authorized to direct the Government National Mortgage Association to purchase loans made for the purchase and installation of residential energy conservation improvements insured under Title I and Section 241 of the National Housing Act. Instead, the Bank is directed to purchase any loans made in whole or in part for such improvements or solar energy systems, unless the Board finds such authority unnecessary to advance the national program of energy conservation in residential buildings.

The Bank could purchase a loan or advance of credit only if the energy conserving improvements or solar energy systems involved are installed in residential buildings and are purchased and installed, after the date of enactment of the Solar Energy and Energy Conservation Bank Act. These loans and advances of credit must meet other requirements established by the Board, must involve repayment terms of not less than 5 years and not more than 15 years (without prepayment penalty), must have an interest rate and security acceptable to the Board, and must not exceed \$15,000. The entity from which a loan or advance of credit is purchased must also agree to lend or advance credit for the purchase of residential energy conserving improvements or solar energy systems in amounts equal to the amount of the loan or advance of credit purchased by the Bank.

The reference to public utilities in section 531(a) should not be deemed to exclude utilities not covered under section 211 of NECPA if such utilities are undertaking financing programs.

Authority of Solar Energy and Energy Conservation Bank to Purchase Mortgages Secured by Newly Constructed Homes With Solar Energy Systems

Section 532 amends section 316 of the Federal National Mortgage Association Charter Act by deleting certain requirements including

the authority of the Secretary of HUD to direct the Government National Mortgage Association to purchase title I insured loans and advances of credit made for the purchase and installation of solar energy systems in residential buildings. Instead, the amendment provides that the Bank shall make purchases of mortgages secured by newly constructed residential buildings containing solar energy systems and meeting or exceeding cost effective energy conservation standards established by the HUD Secretary, unless the Board finds such activity unnecessary to advance the national program of energy conservation through the use of solar energy systems in residential buildings. A mortgage may be purchased if it meets several conditions including the requirements that: the mortgage term is not less than 5 years and does not exceed 30 years (with no prepayment penalty); the interest rate charged is acceptable to the Board; the principal amount of the mortgage does not exceed the maximums established under section 203(b) of the National Housing Act (presently \$81,000 for a single unit residence containing a solar energy system); and the dwelling which secures the mortgage is purchased after the date of enactment of this title. The amendment also deletes several requirements in existing law including the requirements: that there be recourse to the originator of any loan purchased; that the interest rate on purchased loans be lowered if less than fifty percent of the funds available in any year are not used; and that the purchase authority provided in the section be terminated within 5 years of enactment. The authorization of appropriations for this section is increased from \$100 million to \$800 million.

Repeal

Section 533 repeals section 314 of the Federal National Mortgage Association Charter Act which authorized \$3 billion for GNMA to purchase at subsidized interest rates loans made to low- and moderate-income families for the purchase and installation of energy conserving improvements in residential buildings owned by such families.

Secondary Financing by Federal Home Loan Mortgage Corporation and by Federal National Mortgage Association

Section 534(a) amends section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act to permit FHLMC to make commitments to purchase and to purchase residential mortgages from any public utility carrying out lending activities in accordance with title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit whose original proceeds are used to finance the installation of residential energy conserving improvements or a solar energy system in residential real estate.

Section 534 amends section 302(b)(3) of the Federal National Mortgage Association Charter Act to permit FNMA to purchase loans or advances of credit made, by any public utility carrying out lending activities in accordance with the requirements of title II of the National Energy Conservation Policy Act, for the purpose of financing the installation of residential energy conserving improvements or the addition of a solar energy system to a residential building.

SUBTITLE B—UTILITY PROGRAM

Definitions

Section 541 expands the definition of buildings covered by the Residential Conservation Service Program under the National Energy Conservation Policy Act (NECPA) by including, after January 1, 1982, multifamily residential buildings which do not have central heating or central cooling systems.

State List of Suppliers and Contractors—Required Warranty

Section 542 deletes the provision in NECPA which requires that manufacturers provide a three-year warranty for products to be included on the list of eligible residential energy conservation measures, and replaces it with new warranty requirements. Specifically, this section provides that a written warranty must be provided for any energy conservation measure supplied or installed under the Residential Conservation Service Program. It also sets forth the minimum terms of this warranty: any defect in materials, manufacture, design or installation found within one year after installation must be remedied without charge and within a reasonable period of time. This section also amends NECPA so as to leave existing Federal and State laws in force with respect to warranties unless those laws are inconsistent with the provisions of this section.

Finally this section provides that only a supplier or installer who agrees to comply with these warranty provisions may be included on approved State lists of suppliers and contractors.

There is a considerable body of Federal and State law which governs warranties. Some of these laws applicable to warranties may operate to prevent the offering of the minimum warranty set forth here. The conferees intend that these laws, or portions thereof, will be superseded only to the extent necessary to make them consistent with this section. Therefore, any right, remedy, or other requirement in Federal or State law would still apply, unless such right, remedy or requirement was inconsistent with the requirements of this section. For example, section 111(d) of the Moss-Magnuson Warranty Act renders the warranty requirements of that statute inapplicable to any written warranty "the making or content of which is otherwise governed by Federal law". Nothing in the Moss-Magnuson Warranty Act is inconsistent with a requirement that the minimum warranty specified in this section be offered. Hence, that Act and the Federal Trade Commission's rules under that Act would continue to apply.

Finally, it should be emphasized that persons involved with a utility program under NECPA are free to offer any warranty they desire, consistent with applicable State and Federal law, as long as the warranty meets or exceeds the minimum requirements of this section.

There is no intention by inclusion of this provision in NECPA to specify or otherwise affect arrangements which may be made among manufacturers, suppliers, and contractors with respect to transportation, storage or maintenance of residential energy conservation measures. The purpose of the provision is to insure that the customer for whom residential energy conservation measures are installed under a utility program have at least the warranty protection set forth in this provision.

The conferees intend that a supplier could satisfy the warranty requirement of section 212(b)(3)(C) by an assignment of the manufacturer's warranty to the person to whom the measure is supplied.

State List of Financial Institutions

Section 543 provides that State lists of lending institutions, required under NECPA to be provided by utilities to customers, shall indicate that financial assistance under the Solar Energy and Energy Conservation Bank Act may be available through such lending institutions.

Treatment of Utility Costs

Section 544 revises the requirements concerning utility recovery of costs associated with the project manager requirements under NECPA to provide that the State regulatory authority or the nonregulated utility will determine how these costs will be recovered, except that no more than \$15 per dwelling unit may be charged to a customer for such activities.

This section also deletes the NECPA provisions relating to utility recovery of costs for labor and materials in providing energy conservation measures, leaving this matter to the discretion of State regulatory authorities or the nonregulated utilities. This section also simplifies the provisions relating to the repayment of loans through utility bills, and permits a utility to recover from other lenders the costs which a utility incurs in providing a loan repayment service.

The conferees intend that any utility conducting a financing program shall appear on the State list of qualified lenders described in Section 213(a)(3) of NECPA.

Tax treatment

Section 545 provides that any subsidy provided to a customer by a utility's financing program for residential energy conservation measures shall not be treated as income or as an increase in the basis of the customer's residence for tax purposes.

The conferees intend that any financial assistance which is provided to a customer by a utility for residential energy conservation measures and which does not include Federal, State or local governmental financial assistance (such as assistance from the Solar Energy and Energy Conservation Bank) shall not be considered subsidized energy financing for the purposes of the Internal Revenue Code, and shall not, therefore, disqualify such a customer from receiving the relevant tax credits for expenditures so financed.

Supply, installation and financing by public utilities

Section 546 deletes the prohibition in NECPA against utility financing of energy conservation measures, thus permitting utilities to undertake lending programs subject to State law. It also revises the prohibition in NECPA on utility supply and installation of conservation measures. This section exempts utilities from the prohibition on supply and installation of such measures if supply and installation is undertaken through independent suppliers and contractors which are (1) on the State list required under the NECPA utility program; (2) not under control of the utility except as to performance of their contracts; and (3) if selected by the utility, are selected fairly and

openly from among those on the State lists. Further, any utility supply and installation program must not involve unfair methods of competition or have a substantial adverse effect upon competition, must not allow any supplier or contractor to gain an unreasonable share of the business in a utility program area, and, where a utility offers financing in connection with a supply or installation program, must also make available such financing for similar measures to be installed by any contractor on the State list or by the individual customer. Utilities must seek to minimize the cost of supply and installation to their customers, and must make available information on average costs of conservation measures installed under such programs.

This section further provides that a State plan must require any utility undertaking a financing program for which it seeks capital from financial institutions to seek such capital from financial institutions located throughout the utility's lending area, but this requirement applies only to the extent such utility determines this method of raising capital is feasible, consistent with good business practice, and not disadvantageous to its customers. This section also requires that if State plan permit or require utility supply and installation programs, the plans will include provisions to assure that such programs will be undertaken only in full compliance with the conditions on utility supplying and installing described above. Finally, the section requires a utility which undertakes a financing, supply or installation program to notify the Secretary of Energy at the commencement of such a program.

The conferees recognize that utilities have great potential for encouraging energy conservation improvements by their customers, and desire to remove the unnecessary obstacles in NECPA to such activities. However, the conferees are very concerned that any such utility activities be carried out in a fashion which will not be deceptive or anticompetitive. The conferees are aware that many businesses, including small businesses, are active in supply and installing energy conservation measures, and thus intend that no utility unfairly discriminate against any such business' participation in a utility supply and installation program. The conferees intend that utilities, in carrying out such programs, select contractors or suppliers in a fair and open process from among those on the State lists.

For utilities undertaking programs to supply or install energy conservation measures, the conferees intend that sufficient protections against anti-competitive practices be insured. In revising the statute, the conferees intend that there be three basic tests: (1) before a utility can undertake a program, a State plan must include protection against anti-competitive acts or practices as described in section 216(c)(2); (2) a utility must notify the Secretary of Energy at the time of commencement of such a program; and (3) the Secretary of Energy must monitor utility programs and, if the Secretary (in consultation with the Federal Trade Commission) determines that unreasonable rates or unfair methods of competition are resulting from a particular program, the Secretary can order the utility program terminated.

In requiring that a utility commencing a program for financing, supplying or installing energy conservation measures notify the Secretary of Energy, and in requiring all such programs to be in con-

-nce with the procedures specified in a State plan, the conferees

to not intend any requirement for submission of any individual utility's program to the Secretary, or approval of such individual program by the Secretary prior to its going into effect. While it is the intent of the conferees that a State plan cover utility financing, supplying and installing before a utility in such State commences any such program, it is not the intent of the conferees to require any State to submit an amendment to the State plan in each case where a utility undertakes a new program. Rather, the State should submit a general amendment to the State plan which will inform the Secretary of Energy of the procedures the State will utilize to insure that the requirements of this subtitle are met and which amendment must be approved by the Secretary. The conferees expect that the Secretary, in consultation with the Federal Trade Commission, shall fully carry out the responsibilities to monitor utility programs as required under section 216(g) of NECPA and, in the event that anticompetitive practices or unreasonable rates have resulted from any particular utility program, to seek rectification or termination of such program in accordance with the procedures under section 216(g).

The conferees intend that a utility shall treat the cost associated with supply or installation or financing program in any way it determines appropriate, subject to approval of the State regulatory authority in the case of regulated utilities, and subject to discretion of the utility in the case of the non-regulated utility. The conferees are concerned that any utility undertaking such a program not establish rates or surcharges which would directly penalize customers for any conservation initiatives they might undertake.

The conferees did not include any additional statutory requirements for post-installation inspections of buildings in which residential energy conservation measures are installed under utility programs. However, the conferees believe that the States, in complying with the provisions of Section 213(b) of NECPA, are already required to adopt procedures to protect consumers against fraud and to investigate and resolve any complaints regarding fraud. The conferees are agreed that at least during the first year of any utility program, it is essential to perform a sufficient number of post installation inspections to assure that a high quality performance be provided by the installers or suppliers. The conferees assume that in addition to adopting procedures to protect consumers against fraud, States, in the interest of maximizing the conservation benefits of utility programs, will also adopt procedures to assure that high quality installation work is accomplished. The conferees expect that States will utilize information obtained from any post-installation inspections in determining whether suppliers and installers on the State list should be removed from such list due to poor workmanship, or unfair, fraudulent or deceptive practices.

While it is the intent of the conferees to have utilities give consideration to financing their lending programs through local banks, it is not intended that utilities be required to incur costs or other terms or conditions they deem to be unacceptable.

The conferees wish to make clear that utility programs operating under the exemption provisions contained in section 216(d) and the waiver provision of section 216(e) are not affected by the provisions of this subtitle.

Authority to monitor and terminate supply, installation, and financing by utilities

Section 547 requires the Secretary of Energy, in consultation with the Federal Trade Commission, to monitor financing, supply and installation activities of public utilities. In the event the Secretary finds that a utility program is resulting in unreasonable rates, terms, or conditions, is resulting in adverse effects upon competition, or does not comply with the section 216(c) requirements regarding supply and installation programs, the Secretary may, after notice and a public hearing, order such program terminated.

This section also requires the Secretary of Energy to report annually to the Congress on the conduct of utility programs.

Unfair competitive practices

Section 548 provides that nothing contained in these amendments shall be construed to bar any action with respect to anticompetitive acts or practices or to provide to any person exemption from antitrust laws.

Effective date

Section 549 provides that the amendments made herein shall become effective on enactment. The Secretary shall promulgate such rules as are necessary to implement the amendments contained herein no later than 120 days after enactment. The amendments made by this title shall not delay the submission, approval, or disapproval of any other plans required by the National Energy Conservation Policy Act as passed in 1978.

Relationship to other laws

Section 550 provides that any public utility or utility holding company system subject to the Public Utility Holding Company Act (PUHCA) of 1935 shall be entitled to undertake programs for financing, supply, or installation of residential conservation measures without regard to the divestiture provisions of the Public Utility Holding Company Act.

This section applies only to Section 11(b) of PUHCA and seeks to address potential impediments to utility activities under Title II of NECPA due to the Securities and Exchange Commission opinion arising from the Michigan-Consolidated case. This provision is not to be construed as an exemption from any other provision of law, including anti-trust law.

SUBTITLE C—RESIDENTIAL ENERGY EFFICIENCY PROGRAM

Purpose

Section 561 sets forth the purpose of the subtitle which is to establish a program in the Department of Energy to encourage up to four demonstrations of the prototype residential energy efficiency plan described in the subtitle.

AMENDMENT TO NECPA

Section 562 amends title II of the National Energy Conservation Policy Act (NECPA) by adding a new part V composed of sections through 270.

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on 261 of NECPA defines a residential building as a building a residence (without regard to the number of dwelling units ed in such building) which is not a new building to which final ance standards under the Energy Conservation and Produc- t apply and which has a heating or cooling system or both. Ex- : this change, the definitions of section 210 of NECPA apply to t.

al of plans for prototype residential energy efficiency pro- ms and provision of financial assistance for such programs

on 262 of NECPA describes the provisions of a residential en- ciency plan.

idential energy efficiency plan and the program under such a ould involve several provisions. These are described in subsec- (a).

blic utility (or several public utilities) would enter into a con- ith one or more independent persons to implement a compre- energy conservation program in all or a portion of the utility's area. This program would include the supply and installation, charge, of energy conservation measures in residential build- the designated portion of the utility service area. The program o include provisions for consumer education, for the adoption -cost no-cost" energy conservation techniques, and other ac- designed to maximize the energy savings achieved in the desig- rea under the program. The energy conservation measures in- and the conditions under which any individual measure might lled would be set forth in the contract. These measures need not ame as the measures enumerated in section 210 of NECPA. erson or persons with whom the utility enters into a contract is part must be selected in a fair, open and nondiscriminatory . The contract would provide for the payment by the utility erson or persons conducting the energy conservation program cified price for each unit of energy saved as a result of the a over the period of the contract. This price is to be based on e to the utility of the energy saved. The conferees intend that e associated with any deferral in the expansion of energy pro- conversion, or distribution facilities owned by the utility (re- from reduction in energy demand because of the program) ncluded in the value of the energy saved.

measurement of the energy saved as a result of the program nt under the contract would be accomplished under a pro- stablished by the State or local government submitting the ion covering the residential energy efficiency plan. This pro- he terms of payment for saved energy and the contract itself e subject to the approval of the entity exercising ratemaking y over the public utility entering into the contract.

lan must include effective provisions for the enforcement of ract.

ional required elements of the contract are set forth in subsec- (b). This contract must require the person or persons operat- energy conservation program under the residential energy effi- lan to offer to the owner or occupant of each residential build-

ing in the designated portion of the utility's service area, without charge, an inspection to determine which energy conservation measures will be installed in that building under the plan. In connection with this inspection, information would be provided concerning the savings in energy costs likely to result from the installation of the measures determined to be appropriate for that building. This information would include suggestions and advice about modifications in household activities which could significantly reduce energy consumption without the installation of energy conservation measures, and would include the savings in energy costs likely to result from these modifications.

If the owner or occupant agrees, the energy conservation measures determined in the inspection to be appropriate for the building in question would be installed without charge. In addition, low-cost modifications in the building may be made at the time of the inspection. These modifications might include such things as the use of insulating tape, weatherstripping or small amounts of insulation or other techniques to seal off paths along which heat flows into and out of the building and adjustments in heating and cooling equipment to optimize energy efficiency.

A written warranty must be provided for any energy conservation measure supplied or installed under the residential energy efficiency plan. The statute sets forth the minimum terms of this warranty: any defect in materials, manufacture, design or installation found within one year after installation must be remedied without charge and within a reasonable period of time.

There is a considerable body of Federal and State law which governs warranties, some of which may operate so as to prevent the offering of the minimum warranty set forth here. The conferees intend that these laws or portions thereof, will be superseded only to the extent necessary to make them consistent with this part. Therefore, any right, remedy, or other requirement in Federal or State law would still apply, unless such right, remedy or requirement was inconsistent with the requirements of this part. For example, section 111(d) of the Moss-Magnuson Warranty Act renders the warranty requirements of that statute inapplicable to any written warranty "the making or content of which is otherwise governed by Federal law". Nothing in the Moss-Magnuson Warranty Act is inconsistent with a requirement that the minimum warranty specified in this part be offered. Hence, that Act and the Federal Trade Commission's rules under that Act would continue to apply.

Finally, it should be emphasized that the person or persons operating a residential energy efficiency plan are free to offer any warranty they desire, consistent with applicable State and Federal law, as long as the warranty meets or exceeds the minimum requirements of this part.

Subsection 262(c) limits to four the number of applications for financial assistance and plan approval which the Secretary may approve. The conferees intend that the authority available under this part to implement a residential energy efficiency plan to be limited to no more than four demonstration plans even if financial assistance is not provided under one or more of the approved applications covering

ans.

Applications for approval of plans for prototype residential energy efficiency programs

Section 263 of NECPA authorizes the Secretary of Energy to provide financial assistance for applications containing the minimum information set forth in subsection 263(b) and approved under section 264. All applications are required to include: a description of the prototype residential energy efficiency plan to be implemented and of the location of the utility service area in which such implementation is intended; a description of the manner in which the requirements for plans and contracts under this part are met; and the record of required public hearing conducted on the proposed application. In addition, the Secretary may require applicants to submit such other information as the Secretary determines is reasonably necessary to carry out his duties under this part.

Approval of Applications

Section 264 of NECPA sets forth the requirements for approval of applications for financial assistance and for authority to implement prototype residential energy efficiency plan under this part. Any such application must be approved in writing by the public utility involved, the entity exercising ratemaking authority over the utility and the Governor (or any State agency specifically authorized to grant such approval under State law) of the State in which the portion of the utility service area covered by the application is located.

Before the application is submitted, the State or local government planning to submit an application must publish a proposed application. After such publication and adequate notice to the public, the applicant must conduct a public hearing at which interested members of the public may comment on the proposed application. Modifications in the proposed application may be made to take into account what is learned at this hearing.

In deciding which applications to approve, the Secretary must take into consideration several factors set forth in this section, including the potential for energy savings from the plan to be implemented, the likelihood that the value of the energy saved to the public utility under the program will be sufficient to cover the estimated cost of applying and installing energy conservation measures under the proposed plan and the likely effects on competition in the utility service area covered by the application. The conferees also expect that the Secretary will take into account the need to test the viability of the residential energy efficiency plan concept as set forth in this part in a variety of circumstances. The Secretary should strive to select the four demonstrations of residential energy efficiency plans so as to reflect different climatic conditions, energy supply sources, energy use patterns and forms of utility ownership. In particular, the conferees expect the Secretary to be mindful of the desirability of assessing the value of residential energy efficiency plans in assisting public utilities to defer decisions to construct or expand facilities.

Rules and Regulations

Section 265 of NECPA requires the Secretary to issue proposed rules and regulations for the program authorized by this part within 120 days after the enactment of this part and final rules and regulations within 90 days after publication of proposed rules and regulations.

Authority of the Federal Energy Regulatory Commission to Exempt Application of Certain Laws

Section 266 of NECPA authorizes the Federal Energy Regulatory Commission to exempt the sale or transportation of natural gas conserved as a result of a residential energy efficiency plan from provisions of certain Federal laws if the Commission determines that such exemption is necessary to make feasible the demonstration of that plan. The volume of natural gas subject to such exemption would be determined by the State agency exercising ratemaking authority over the utility, local distribution company or pipeline seeking the exemption. A nonregulated utility, local distribution company or pipeline, would itself certify the volume of gas saved. The authority under this section is intended to give the Commission broad discretion to fashion any exemption to facilitate a test of the residential energy efficiency plan concept. The use of this authority is limited to the four demonstration projects authorized by this part. There is no intention to authorize under this part any exemptions by the Commission for energy conservation plans undertaken by public utilities based on authorities other than those contained in this part.

Application of Other Laws

Section 267 of NECPA states that no provision of this part shall result in any immunity from the antitrust laws as such laws are defined in subsection (c) of this section. Subsection (b) authorizes the Secretary of Energy to relieve a public utility from the obligation to inspect any residential building as required under part 1 of the National Energy Conservation Policy Act if equivalent actions with respect to such building are taken under a residential energy efficiency plan approved under this part.

Records and Reports

Section 268 of NECPA provides that each State and local government whose application for a residential energy efficiency plan is approved and each public utility and person entering into a contract under the plan shall keep such records and make such reports to the Secretary as the Secretary requires. The Secretary and the Comptroller General shall have access at reasonable times and under reasonable conditions to any information pertinent to this part. The conferees expects that the Secretary and the Comptroller General will make use of the authority under this section to closely monitor the operation of residential energy efficiency plans approved under this part so that the maximum practicable amount of information is obtained concerning the viability of the plan concept. On the other hand, the conferees do not intend that unreasonably burdensome reporting requirements be imposed under this section.

The Secretary is required to make an annual report on activities under this part in connection with the annual report prepared by the Secretary under the Department of Energy Organization Act. The report is to fully analyze the Department's experience with the program under this part and must include certain elements enumerated in the section. The conferees understand that certain of these analyses may be difficult to fully carry out in the first annual report submitted after enactment of this subtitle. For example, the impact of a residen-

Section 101 of the National Energy Conservation Policy Act (NECPA) is amended by adding at the end thereof the following:

Section 102. (a) The Secretary of the Interior shall, in consultation with the Secretary of Energy, develop and submit to the President a plan for the establishment of a National Energy Conservation Program. The plan shall include a description of the program, the objectives of the program, the methods of implementation, and the estimated cost of the program. The Secretary of the Interior shall also submit to the President a report on the progress of the program, and a report on the results of the program. The Secretary of the Interior shall also submit to the President a report on the results of the program, and a report on the results of the program.

Section 103. (a) The Secretary of the Interior shall, in consultation with the Secretary of Energy, develop and submit to the President a plan for the establishment of a National Energy Conservation Program. The plan shall include a description of the program, the objectives of the program, the methods of implementation, and the estimated cost of the program. The Secretary of the Interior shall also submit to the President a report on the progress of the program, and a report on the results of the program. The Secretary of the Interior shall also submit to the President a report on the results of the program, and a report on the results of the program.

Section 104. (a) The Secretary of the Interior shall, in consultation with the Secretary of Energy, develop and submit to the President a plan for the establishment of a National Energy Conservation Program. The plan shall include a description of the program, the objectives of the program, the methods of implementation, and the estimated cost of the program. The Secretary of the Interior shall also submit to the President a report on the progress of the program, and a report on the results of the program. The Secretary of the Interior shall also submit to the President a report on the results of the program, and a report on the results of the program.

Section 105. (a) The Secretary of the Interior shall, in consultation with the Secretary of Energy, develop and submit to the President a plan for the establishment of a National Energy Conservation Program. The plan shall include a description of the program, the objectives of the program, the methods of implementation, and the estimated cost of the program. The Secretary of the Interior shall also submit to the President a report on the progress of the program, and a report on the results of the program. The Secretary of the Interior shall also submit to the President a report on the results of the program, and a report on the results of the program.

Definitions
The new section 710 of NECPA provides that the definitions contained in section 210 of NECPA will apply except with regard to terms which are defined specifically in this section.

With respect to the definition of a commercial building, which is limited to buildings with maximum consumption levels of electricity, gas or the Btu equivalent of gas for other fuels, the conferees intend to include only small commercial enterprises in the expanded energy audit program. While it is recognized that 4,000 Kwh is not the exact equivalent of 1,000 therms, testimony before Congress indicated that the two consumption levels would, in fact, identify businesses of similar size.

The conferees intend that in developing regulations to implement the expanded Residential Conservation Service program, the Secretary should recognize that the maximum energy consumption limitation for commercial buildings is expected to restrict the program to small commercial enterprises. However, consistent with this goal, the Secretary's directives for the determination of which buildings meet these criteria should require only the use of information readily available to utilities covered by this subtitle.

The definition of a multifamily dwelling in this title is distinguished from that of a multifamily building under title II of NECPA in that the former has no central system for heating or cooling, whereas the latter does.

Coverage

Section 711 of NECPA provides that only those public utilities which are required to participate in the Residential Conservation Service Program of Title II of NECPA would be required to participate in this program.

Rules of Secretary for Submission and Approval of Plans

Section 712 of NECPA specifies the time period within which the Secretary of Energy must issue rules for this program. These rules may identify energy efficient improvements appropriate in various climatic regions and for various types of buildings. To the extent practicable, the rules for this program should coordinate the requirements of this program with the Supplemental State Plans required under section 367(b)(1) of the Energy Policy and Conservation Act and with the utility program established under title II of NECPA. The rules for this program should not have the effect of delaying the submission, approval or implementation of the utility program required under title II of NECPA.

Procedures for Submission and Approval of State Energy Conservation Plans for Commercial Buildings and Multifamily Dwellings

Section 721 of NECPA provides that each governor and nonregulated utility must submit a plan concerning the expanded audit program to the Secretary within 180 days of promulgation of final rules. The Secretary may extend the submission period for good cause shown. The section also provides that, with the exception of Federal agencies, a governor may include nonregulated utilities in the State plan. If the governor chooses to include nonregulated utilities in the plan, they will be treated as though they were regulated utilities under this new title and plans will not be required of them. The governor may also include building heating suppliers in the plan. In addition, the section provides that the Tennessee Valley Authority will submit a plan for utilities over which it has ratemaking authority.

Requirements for State Plans for Regulated Utilities

Section 722 provides that no proposed energy conservation plan for commercial buildings and multifamily dwellings shall be approved by the Secretary unless that plan: (1) requires that each utility offer an energy audit to each eligible commercial building or multifamily dwelling in compliance with Section 731 of NECPA; (2) provides adequate procedures for enforcement of the plan; (3) includes procedures for coordination among various local, State, and Federal energy conserving programs within the State. The State regulatory authority, or the governor in the case of nonregulated utilities, may determine that a utility within its jurisdiction need not fully comply with Section 731 if it is found that the inclusion of eligible commercial buildings and multifamily dwellings would impair such utility's ability to satisfy its requirements under Title II of NECPA or provide reliable utility service to its customers.

Plan Requirements for Nonregulated Utilities and Building Heating Suppliers

Section 723 of NECPA provides that no plan proposed by a nonregulated utility may be approved by the Secretary unless such plan meets the same requirements provided for regulated utilities. No plan proposed for building heating suppliers may be approved by the Secretary unless such plan: (1) meets the requirements contained in section 722 regarding coordination with various local, State, and Federal energy conserving programs within the State; (2) meets the notice and public hearing requirements contained in section 732 (including adequate enforcement procedures); and (3) takes into account the resources of small building heating suppliers.

Utility programs

Section 731 of NECPA establishes the requirements for each utility program. Under such programs, each utility within one year after approval of the program plan and every two years thereafter until 1990 must offer energy audits to eligible customers who own or rent small commercial buildings or multifamily dwellings. In the case of a multifamily dwelling, the availability of such audit is conditional upon the building owner's agreement to provide to the tenants of such building the information revealed by the audit that is applicable to individual dwelling units. Utilities must retain reports of audit results for ten years, must make such reports available to eligible customers who subsequently occupy the audited buildings, and need not re-audit buildings for which audits have already been conducted. Utilities may contract with other entities, including other utilities, to conduct the audits required by this title. The section provides for the separate accounting of costs of the audit program and for the treatment of the cost of providing information concerning the availability of the audit as current operating expenses to be charged to all of the utility's ratepayers.

The section leaves discretion with State regulatory authorities for determining the appropriate audit charges for commercial building audits, but limits the charge for multifamily dwellings to \$15 per unit. However, the conferees intend that charges for commercial building audits shall not exceed the actual cost of the activity. In setting any allowed charges for audits, State regulatory authorities are required to take into account a customer's ability to pay and likely participation levels.

The conferees do not expect utilities to make dwelling unit by dwelling unit inspections in a multifamily dwelling. It is expected that a sampling of the types of units in the building and an inspection of the central features, especially the heating and/or cooling system, will suffice. Additionally, building owners are expected to make available to the occupants of the building such information from the audit as would apply to measures which may be installed in the individual dwelling units.

Building heating supplier program

Section 732 of NECPA provides that, except as may be provided by the Secretary, the procedures required for a building heating supplier program will be the same as those required for utility program under section 731(a). However, a governor who has chosen to include a building heating supplier program in the State plan may waive any requirement established under this section if a heating supplier demonstrates that it does not have the resources to comply with the requirement.

Federal standby authority

Section 741 of NECPA provides that if a State does not have a plan approved within 270 days (or such longer period as the Secretary may allow) after the Secretary's promulgation of rules for title VII, the Secretary will promulgate a plan which meets the requirements for these programs under title VII and order all regulated utilities in such State to carry out the program described in the Secretary's plan. In the cases of nonregulated utilities without an approved plan, the Secretary will order such utilities to promulgate a plan and offer the program to their customers within 90 days of such order.

This section also provides that the Secretary may enforce the provisions of title VII by petitioning the appropriate U.S. district court to enjoin any person from violating any provision, plan or order under title VII.

SUBTITLE E—WEATHERIZATION PROGRAM

Limitation on administrative expenditures

Section 571 amends Section 415(a) of the Energy Conservation in Existing Buildings Act of 1976 to provide that not more than 10 percent of any grant made under the Department of Energy weatherization grant program may be used for administrative purposes, except that a state may not use more than 5 percent of the total state grant for such purposes.

Expenditures for Labor

Section 572 amends Section 415(c) of the Energy Conservation in Existing Buildings Act of 1976 to provide that in areas where the Secretary, after consultation with the Secretary of Labor, determines that there are insufficient volunteers and CETA workers available to work on weatherization projects under qualified supervisors and foremen, the Secretary may increase from \$800 to \$1,600 per dwelling unit the amount available to cover the costs of paying persons who will install weatherization materials and to the maximum extent practicable who would have otherwise been eligible to participate as CETA workers.

The conferees intend that where there are no volunteers or CETA workers available and where workers are not available who would otherwise have been eligible to participate as CETA workers, workers may be hired from the general labor pool. In addition, where specially skilled workers (such as master electricians) are necessary to accomplish specific weatherization activities, such workers may be hired. The conferees also intend that in jurisdictions where adequate weatherization materials can be purchased within the \$800 limit, but volunteer or CETA workers are not available to install such materials, funds may be used to hire workers under the guidelines of this section. The conferees intend that the increase in available funds from \$800 per dwelling unit should not mean an automatic increase to \$1,600, but should be limited to the amount necessary to accomplish the purposes of this program in those areas of the country where volunteer or CETA workers are not available.

Selection of local agencies

Section 573 amends the Energy Conservation in Existing Buildings Act of 1976 to delete the priority given to community action agencies under the weatherization grant program. In addition, the section establishes a procedure to be followed by each state in selecting the local agencies to conduct the weatherization program. These agencies, which may be community action agencies or other public or nonprofit entities, are to be selected on the basis of information received during public hearings regarding each agency's experience and performance in weatherization or housing renovation activities, in assisting low-income persons and such agency's capacity to undertake a weatherization program. Preference in such selection is to be given any community action agency or other public or nonprofit entity which is carrying out, or has conducted, an effective weatherization program under Department of Energy or Community Services Administration programs.

It is intended that this provision assure that State procedures for the selection of local agencies to carry out weatherization activities will be based on past performance in weatherization programs, experience in assisting all groups of low-income persons, and the capacity to undertake a weatherization program.

Because of the need to maintain continuity in the weatherization program, it is not the intention of the Conferees to replace an agency currently operating a program under this title unless it can be shown that an alternative agency can provide superior program administration. Further, it is intended that changes in the administration of the program at the local level be undertaken as seldom as possible so that disruptions in service delivery can be cut to an absolute minimum.

Standards and procedures for weatherization program

Section 574 clarifies that in carrying out the weatherization program, the Secretary shall establish standards for weatherization materials and energy conservation techniques and procedures for determining the optimum set of cost-effective measures in a manner so as to achieve uniform results among all states in any area with a similar climate.

Limitations on expenditures

Section 575 increases the individual dwelling unit limit on expenditures from \$100 to \$150 for incidental repairs as may be necessary to make the installation of weatherization materials effective.

Authorization of appropriations

Section 576 authorizes for fiscal year 1981 an appropriation of \$200 million for this weatherization program.

Technical amendments

Section 577 replaces the term "Federal Energy Administrator" with the term "Secretary of Energy" wherever it appears in the law authorizing the weatherization program.

SUBTITLE F—ENERGY AUDITOR TRAINING AND CERTIFICATION

Purpose

Section 581 states that the purpose of this subtitle is to encourage the training and certification of individuals to conduct energy audits of residential and commercial buildings.

Definitions

Section 582 provides a list of general terms and definitions used in the subtitle.

The definition of "energy audit" expands the meaning from that in section 215(b)(1)(A) and section 710(b)(7) of the National Energy Conservation Policy Act in order to include provision of information on the utilization of renewable energy resources and include installation of energy-related improvements. The conferees intend, therefore, that grants under this subtitle also be available for training for these expanded activities.

Grants

Section 583 provides that the Secretary of the Department of Energy may make grants to the Governor of any state for the training and certification of individuals to conduct energy audits. Applications for such grants must contain an assurance that the grants will supplement and not supplant other funds available for this purpose. Before making grants, the Secretary shall establish minimum standards for training and certification of individuals to conduct energy audits. The Secretary shall require that any Governor receiving a grant under this section agree to comply with the minimum requirements for auditor training and certification.

The conferees intend that minimum training and certification standards should be sufficiently flexible to permit innovation in training and auditing techniques.

Although applications for auditor training funds may be submitted with State Supplemental Energy Plans, the Conferees do not intend that the distribution of such funds be governed by the allocation formula used to fund State Supplemental Energy Plans. Funds under this subtitle should be distributed based on the scope of the program proposed in each application and should not be concentrated in only a few states.

Authorization of appropriation

Section 584 authorizes an appropriation of \$10,000,000 for fiscal year 1981, and \$10,000,000 for fiscal year 1982. Such sums shall remain available until expended.

SUBTITLE C—INDUSTRIAL ENERGY CONSERVATION*Authorization of appropriation*

Section 585 authorizes in addition to other funds available for such purposes, \$40 million for each fiscal year 1981 and 1982 for industrial energy conservation demonstration projects designed to substantially increase productivity in industry.

The conferees intend that the additional funds authorized by this section will be used under existing laws of structure and of projects which place an emphasis on achieving the greatest amount of energy savings for the smallest Federal investment.

SUBTITLE E—COORDINATION OF FEDERAL ENERGY CONSERVATION FACTORS AND DATA*Consensus on factors and data for developing energy conservation standards*

Section 595 provides that the Secretary of Energy shall assure that within 6 months from enactment the Secretaries of Energy, Housing & Urban Development, Agriculture, Health and Human Services, Defense, the Administrator of the Federal Reserve Administration and the head of any other agency responsible for developing energy conservation standards for new or existing residential (including multi-family), commercial, or agricultural buildings reach a consensus regarding factors and data used in deriving these standards. This consensus shall apply, but not be limited to, the price projections, discount and inflation rates, climate conditions and zones, and the cost and energy saving characteristics of construction materials.

The conferees intend that the Secretary of Energy take responsibility for the operation of a working group to develop such consensus factors and data, and that this group shall complete the identification of and agreement regarding these factors and data within 6 months of the date of enactment of this Act.

Use of factors and data

Section 596 provides that these consensus factors and data (1) may by consensus be revised, and (2) shall be used by all Federal agencies in establishing and revising their energy conservation standards. Other factors and data may be used for specific program standards if the Secretary of Energy approves the use of other factors and data on the basis that they were critical to the unique needs of the program concerned. An agency may use other factors and data if using the consensus factors or data would violate an express provision of law or if statutory provisions require a modification of such factors or data.

Report

Section 597 provides that the President report on January 1, 1981, and annually thereafter, to the Congress with respect to the activities carried out under this subtitle and other efforts to coordinate Federal energy conservation programs.

TITLE VI

SUBTITLE A—LOANS FOR GEOTHERMAL RESERVOIR CONFIRMATION

Section 602. This section provides for certain findings by the Congress.

Section 611. This subtitle establishes a new loan program to assist the geothermal industry in exploring for and confirming the economic viability of geothermal reservoirs. A project is considered to be one which is designed to explore for or confirm the economic viability of a geothermal reservoir, including surface exploration and any other tests or procedures, up to and including the drilling of one or more exploratory wells.

The Secretary is authorized to make loans from funds authorized to be appropriated to the Geothermal Resources Development fund, pursuant to this title. Loans are to be paid back at a rate of not more than 20 percent of annual gross revenue from the sale of either electrical energy or direct energy from geothermal resources, from the confirmed reservoir. If the reservoir is confirmed but not used commercially, a revenue may be imputed by the Secretary. The Secretary of Energy will determine when a reservoir is confirmed, based upon criteria utilized by industry, and pursuant to information provided to him by the borrower, or otherwise.

The Secretary may cancel the unpaid balance on any loan if the geothermal reservoir is determined to be technically or economically unacceptable for commercial development. "Person" is defined to include all entities in the statutory definition in 1 U.S.C. 1, and specifically includes municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and Indian tribes.

Section 612. No loan may exceed 50 percent of the costs of such project, except that for a project primarily for space heating or cooling or process heat, the loan may be up to 90 percent of the project costs. In no event shall a loan exceed \$3 million for a project.

Section 613. Loans are made at the same rate as water resources planning projects, for a period of 20 years. If revenues are inadequate to fully repay the principal and accrued interest within 20 years after production begins, any remaining unpaid amounts shall be forgiven.

Section 614. No new loans shall be made after the end of fiscal year 1986. All funds received pursuant to loans made under Section 611 after this fiscal year shall be deposited as miscellaneous receipts in the United States Treasury.

Section 615. The Secretary shall promulgate all regulations made with respect to this subtitle within six months after the date of enactment.

Section 616. For fiscal year 1981, \$5 million is authorized to be appropriated to the Geothermal Resources Development Fund for

the purposes of this subtitle; \$20 million is authorized to be appropriated for each of the four succeeding fiscal years.

SUBTITLE B—RESERVOIR INSURANCE PROGRAM STUDY

Section 621. Within one year after the date of enactment the Secretary is to transmit his report to the Congress on the results of a detailed study of the need for and the feasibility of a Federal program establishing a geothermal reservoir insurance and reinsurance program. The Secretary shall consider, among other things, the role of the reinsurance industry in such report.

Section 622. Upon review of the report, and if the report affirmatively recommends the establishment of the program, the Congress by subsequent act, may specifically authorize this program to be established.

The report shall specifically focus on the language included in this section which sets forth such a program of insurance and reinsurance for geothermal reservoirs but will not be limited to such language. Such a program would provide insurance and reinsurance against the risks associated with the geothermal reservoir failure or partial failure after significant investment in development and use (at least \$1 million) has occurred at a geothermal energy project dependent upon the reservoir. The DOE reservoir insurance program would provide direct insurance only as necessary to supplement any existing private or public insurance available from commercial insurers or other public insurance programs, up to a maximum total insurance from private, public, and DOE sources of \$50 million or 90 percent of the investment, whichever is less. The program would also include DOE reinsurance of any direct reservoir insurance provided by a private insurer, and would include other efforts under other authority to obtain greater participation of the private insurance industry in the area of reservoir insurance by providing an appropriate reserve for the contingent obligations associated with direct insurance and reinsurance commitments resulting from the program. The subsequent legislation required by this Act will provide authorization for such sums as are necessary to be appropriated to the Geothermal Resources Development Fund for use, pursuant to this section. Also, any revenue from premiums paid on DOE insurance or reinsurance would be deposited in the fund in the account established for this purpose.

SUBTITLE C—FEASIBILITY STUDY LOAN PROGRAM

Section 631. There is established in the Department of Energy a new loan program for 90 percent of the cost of feasibility studies and regulatory applications, and 75 percent of costs of construction programs for the development of a proposed nonelectric geothermal system which are shown to be feasible. The loans for feasibility studies may be cancelled if the development of the proposed system is not technically or economically feasible. All loans under the program will bear the interest rate specified for water resources planning projects. A designated subaccount in the Geothermal Resources Development Fund will be the source of all funds for the loan program, and \$5 million is authorized to be appropriated to this sub-

account for the purpose of feasibility study loans. Loans for preparing regulatory applications and for construction purposes will be authorized for appropriations in subsequent legislation. The definition of "person", as used in this section contains all entities listed in 1, U.S.C. 1, and is expanded to include municipalities, cooperatives, industrial development agencies, nonprofit organizations, and Indian tribes, as well as the districts referred to in subsection A of this section.

**SUBTITLE D—AMENDMENTS TO THE GEOTHERMAL ENERGY
RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT**

Section 641. This section contains several amendments to the organic loan guarantee legislation, contained in Title II of the Geothermal Energy Research, Development and Demonstration Act of 1974, (30 U.S.C. 101. *et seq.*). This Act is amended by raising the maximum loan guarantee limit from 75 percent to 90 percent of the costs of any project if the guarantee is made for a loan to an electric, housing or other cooperative, or a municipality.

This act is also amended to exclude all costs of constructing electrical transmission lines which exceed 25 percent of the aggregate cost of the project. In determining this percentage, the amount used in the denominator shall be the total aggregate cost of the project, including the total cost of constructing the electric transmission lines.

An exception to the limitation on funding electric transmission lines is provided in the case of the State of Hawaii, if the Secretary finds that a transmission line is required before the geothermal reservoir can be developed and the project will be remote from the area of primary consumption. On-site consumption is not to be considered for the purpose of this determination. In addition, the transmission line must be capable of being utilized for more than the plant which is the subject of the loan guarantee.

It is the Conferees' intent that only the transmission lines and related equipment necessary for support, maintenance, and interconnect would be eligible for financial assistance as part of the total project cost.

The loan guarantee program has been extended until the end of fiscal year 1990.

A new section, Section 206, is added to the loan guarantee provisions to require the Secretary of Energy to institute a series of procedural reforms to implement more orderly and expeditious processing of geothermal loan guarantees. This new procedure will include a deadline of four months for processing and reaching a final decision on a loan application.

A new section, Section 207, is added to the geothermal loan guarantee provisions to require the Secretary to take the maximum cognizance allowable of any other action previously undertaken pursuant to the National Environmental Policy Act, Section 102(2)(C). This requirement is designed to prevent any significant duplication in the Secretary's considerations pursuant to such section, in connection with the application for a loan guarantee. However, all of the requirements which are applicable to such project under such Section 102(2)(C) be fully satisfied.

Section 642. The Federal government is required to consider the option of using geothermal energy or geothermal energy resource fully in any new Federal building, facility, or installation which is located in a geothermal resource area which may be designated by the Secretary.

Section 643. This section makes certain amendments to the Federal Power Act and the Public Utility Regulatory Policies Act of 1978.

Subsection (a) contains three amendments to the Federal Power Act. Subsection (a) (1) clarifies the authority of the FERC to classify geothermal resources as a primary energy resource for the purpose of the definition of a "small power production facility" under Section 3(17) (A). The Conferees do not intend to cast the FERC's existing regulations under 3(17) of the Federal Power Act into doubt by reason of this amendment.

Subsection (a) (2) and (a) (3) amend the Federal Power Act to provide that any geothermal power producer may apply for interconnection and wheeling orders under Sections 210 and 211(a) of the Federal Power Act, regardless of whether the producer is an electric utility or not.

Subsection (b) contains three amendments to Section 210 of the Public Utility Regulatory Policies Act of 1978. Section 210(a) requires the Commission to prescribe certain rules to encourage cogeneration and small power production. Subsection (b) (1) amends Section 210(a) to expand the scope of these rules to encourage geothermal small power production facilities of not more than 10 megawatt capability.

Subsection (b) (2) amends Section 210(e) to authorize the FERC to exempt geothermal small power production facilities of not more than 80 megawatts capacity from the laws and regulations specified in Section 210(e).

Subsection (b) (3) contains an amendment which removes the limitations on the exercise of the FERC's authority under subsection 210(e) (1), which is contained in subsection (e) (2). In effect, the amendment allows the Commission to exempt from all the laws and regulations specified in Section 210(e) (1) any qualifying small power production facility using geothermal energy as the primary energy source without regard to capacity, as long as it does not exceed 80 megawatts capacity. The Conferees expect that the Commission exercise this authority promptly and in no event later than six months after the date of enactment, because this limitation appears to be a significant disincentive to some geothermal small power production development.

The Conferees intend that any required changes to existing proposed regulations under these sections of PURPA shall be made by amendments to such regulations and shall not delay the effectiveness of any regulations thereto.

The Conferees intend that the amendments to the Federal Power Act and the Public Utility Regulatory Policies Act contained in Section 643 be implemented by amendment of existing regulations, rather than reissuance of such existing regulations.

All references in Section 643 to megawatt capacity refer to megawatt electric capacity.

General

The Conferees intend that any new authority for granting financial assistance under this Title will not be used for any proposed project in the Island Park Geothermal Area which is within 35 miles of the boundary of Yellowstone National Park, unless there has been enacted into law, legislation which provides for protection of the nationally significant thermal features located in the Park (as contained in H.R. 6080, as passed by the House of Representatives, and S. 1388, as reported by the Senate Committee on Energy and Natural Resources, in the 96th Congress).

The Conferees suggest that the Secretary of Energy should conduct three (3) parallel studies related to the accelerated development of geothermal resources in the United States, including (1) geopressured methane, (2) hot dry rock systems, and (3) environmental control technology. The Conferees recognize that the third study is nearly completed.

FILE VII.—ACID PRECIPITATION PROGRAM AND CARBON DIOXIDE STUDY

PART A—ACID PRECIPITATION PROGRAM

SECTION 701—SHORT TITLE “ACID PRECIPITATION ACT OF 1980”

Statement of findings and purposes (Sec. 702)

Congress finds that there could be serious impacts due to acid precipitation from man-made sources and declares the purposes of this Act to be identification, evaluation and research on such efforts.

The definition of acid precipitation was written to make clear that natural effects are not excluded from the research program. However, the Conferees wish to emphasize their concern that the research be focused on the acid precipitation caused by man-made sources so that a better understanding can be obtained of what practical applications will be required to reduce or eliminate these sources of acid precipitation.

Interagency Task Force: Comprehensive program (Sec. 703)

Section 703 establishes a 10-year comprehensive program to be implemented by an Acid Precipitation Task Force chaired by NOAA, EPA and the Department of the Interior with representatives from other Departments and Agencies, four of the National Energy Laboratories, and four additional Presidential appointees and authorizes the National Energy Research Laboratory Consortium to act at the direction of the joint chairmen and appoints the Administrator of NOAA as Director of the research program.

The Conferees intend that the Acid Precipitation Task Force should, to the extent practicable, use members of the general public, including appropriate university scientists, qualified to assist in the gathering of data and information required for the research conducted under this Act.

The Conferees expect that the President, in appointing four additional members to the Task Force, will seek to have them represent the various regions of the country.

The Conferees intend that the Task Force program authorized in this Part shall incorporate to the extent feasible and not duplicate the programs incorporated in the Presidential Directive dated August 2, 1979.

Comprehensive research plan (Sec. 704)

The Task Force is directed to prepare a Comprehensive Research Plan for a program to identify causes and effects of acid precipitation and possible actions. The plan includes individual research, economic assessment, federal coordination, international cooperation, and management requirements. The plan is to be submitted to Congress, subject to public comment and provided in final form to the President. The Task Force must meet at least twice a year and submit an annual report to the President and the Congress.

Implementation of comprehensive plan (Sec. 705)

The Plan is to be implemented in a 10-year period to meet specific objectives and managed as outlined in Section 704. subject to annual authorization.

Subsection 705(b) is not intended to expand or diminish existing regulatory authorities, nor establish new regulatory criteria, standards, or requirements under existing law. The view of the Conferees is that the scientific information provided by the Task Force may be considered by the regulatory agencies in accord with existing procedures.

The annual report required of the Task Force shall be prepared in a format that delineates achievements and anticipates resource requirements.

Authorization and appropriations (Sec. 706)

The Task Force is authorized \$5 million for FY81 with a maximum aggregate of \$50 million for the 10-year program subject to annual authorizations and appropriations. The Conferees intend this authorization should not override appropriations laws but appropriated funds would be distributed in a coordinated manner through the joint management of the Task Force.

PART B—CARBON DIOXIDE STUDY

Study (Sec. 707)

(a) The Study—The Director of the Office of Science and Technology Policy shall contract with the National Academy of Sciences to carry out a comprehensive study on the level of carbon dioxide in the atmosphere. Broad participation including international involvement is encouraged.

(b) A report is required within three years of enactment and should include recommendations on (1) the composition of a long-term carbon dioxide assessment program, (2) the U.S. role in the program, (3) domestic resource requirements, (4) enhancement of its specific utility for government policy-makers, and (5) need for periodic reporting requirements.

(c) Certain Departments are directed to provide necessary information to the Office or the Academy and the Office shall provide an assessment of interagency requirements.

Authorization and appropriation (Sec. 708)

For the study, \$3 million is authorized with at least 80 percent of appropriations to be provided to the National Academy of Science.

TITLE VIII—STRATEGIC PETROLEUM RESERVE

President required to resume fill operations

Section 801 amends the Energy Policy and Conservation Act (EPCA) by adding a mandate to begin crude oil fill of the Strategic Petroleum Reserve (SPR). The President is directed immediately to undertake and continue crude oil acquisition, transportation and oil injection activities at a level sufficient to assure that crude oil in storage will be increased at an average rate of at least 100,000 barrels per day. He must do so without regard to the objectives of section 160(b), but the Conferees expect that the Secretary will abide by these objectives to the extent they are compatible with the mandated fill. The reference to section 159 is intended to relieve the Secretary of any obligation to amend the SPR plan in implementing this section, regardless of the type or source (foreign or domestic) of the oil.

This requirement to fill ceases when the storage level reaches the amount set forth in the SPR plan. That level, which presently is set by the terms of the plan at one billion barrels, may be changed by an amendment to the plan in accordance with the procedures set forth in EPCA. The Conferees intend that if a government agency transfers oil to the SPR, this would be included within the meaning of the term "acquisition", even though there may not be a sale, as such.

The Conferees express in the strongest possible terms their insistence that the President commence and continue filling the SPR as mandated in this Act. The Strategic Petroleum Reserve should be regarded as a national security asset of paramount importance. The specified minimum rate of injection—100,000 barrels per day—is intended to be a minimum and is not to be considered the appropriate rate of injection.

Use of crude oil from Elk Hills Reserve

Section 802 recognizes the Department of Energy is currently producing about 160,000 barrels per day of crude oil from the Elk Hills petroleum reserve but the Administration refuses to fill the SPR. Since existing law creates a budgetary incentive to defer the fill while maintaining the oil sales, the Conferees agreed upon a self-enforcing mechanism to remove this incentive. As long as the Department of Energy is filling the SPR at the average rate of at least 100,000 barrels per day from whatever source, Elk Hills production, sales, and other disposal may continue. If, the mandated fill rate of the SPR is not achieved for whatever reason, then the United States may not sell or otherwise dispose of its share of crude oil from Elk Hills except to fill the SPR directly or by exchange for other oil, as provided under section 804 (b), with certain specified exceptions.

The specified exceptions are: (1) amounts of production set aside or small refiners as provided under existing law, (2) minimal amounts necessary for reservoir protection, (3) production for national defense requirements under the provisions of section 7422(b) (2) of title 10, United States Code, limited to a period of no more than 9 months and (4) suspension under section 803.

This restriction terminates when the storage level has reached 500 million barrels.

The reference to "the United States' share of crude oil" is intended to distinguish crude oil to which the United States has title from that owned by others.

Although this section measures the rate of fill of the SPR based on the per day rate averaged over the fiscal year, the Conferees emphasize that this section is prospective in nature. A determination of noncompliance might be made prior to the end of the fiscal year after assessing the past and present fill rate for that fiscal year and the contracts for future acquisition of crude oil in the remainder of the fiscal year.

It is the intention of the Conferees that the Administration will compensate for deficiencies in the rate of storage in the SPR by increasing the storage activities, even in a succeeding fiscal year, so as to maintain a minimum of 100,000 barrels per day rate of fill.

Suspension during emergency situations

Section 803 would relieve the President of the requirements established by sections 801 and 802 of this title during emergency situations. The President is given discretion to request an exemption from the fill requirements if he finds that compliance with those provisions significantly impairs the ability of the United States to respond to a severe energy supply interruption or to meet the obligations of the United States under the international energy program. He may then transmit such finding to the Congress in accordance with section 552 of the EPCA, together with a request for a suspension of such provisions. The provisions of section 552 regarding energy conservation contingency plans would be applicable to the request for suspension. This suspension would terminate 9 months thereafter, unless an earlier date is specified in the Presidential transmittal.

This section would also create a temporary exemption to the requirements of section 801 and 802 in the event of a drawdown of the SPR. The exemption would last from the date that the President issues an order or directive to commence a drawdown, as permitted under section 161 of EPCA, until the date that the drawdown ceases in fact.

The Conferees intend that if a suspension of the requirements of Subsections 160 (c) and (d) of EPCA occurs, then the requirement under each subsection for a mandated minimum fill rate of 100,000 barrels per day will not apply to the period of suspension. That is, any such period will not be counted for purposes of determining what the average fill rate is for the fiscal year.

Naval petroleum reserves

Section 804 amends existing provisions in title 10, United States Code, relating to the production of crude oil from the naval petroleum reserves. It would permit the Secretary of Energy to enter into contracts for the sale or exchange of natural gas (which is included within the definition of petroleum) from the naval petroleum reserves for periods of more than one year.

The section authorizes the President to direct the Secretary of Energy to place oil produced from the naval petroleum reserves in the SPR. The Secretary may do so by exchanging the oil, directly or indirectly. An indirect exchange is intended to include matching purchase and sale transactions involving different parties. For the limited

purpose of complying with this section, the Secretary may do so without regard to existing Federal procurement statutes and regulations. This would, of course, include exchanges of crude oil produced from the Elk Hills petroleum reserve as specified in section 802. The Conferees intend that to comply with these provisions the Secretary is authorized to make exchanges, swaps or enter into other forms of direct and indirect transfers, including partial cash payments which reflect differences in quality and location of the oils being exchanged. The Conferees intend that any exchanges will reflect the fair market value of the petroleum being exchanged.

In adopting section 804(b) the conferees do not intend to affect the percentage set-aside provisions for small refiners at 10 U.S.C. 7430(d).

This section also authorizes the Secretary to make available to the Department of Defense, on request, petroleum produced from the naval petroleum reserves to meet petroleum product requirements of the Department of Defense. In such case, however, appropriate reimbursement must be made. That reimbursement should reasonably reflect the fair market value of the petroleum provided so as to avoid unjust enrichment of any party in the transaction.

These exchanges could be made without regard to otherwise applicable Federal procurement statutes and regulations. However, the Conferees would encourage the Department of Defense and the Department of Energy to abide by existing procurement laws and regulations where they deem it consistent with the objective of this section. It is not the intention of the conferees to prohibit or discourage DOD from abiding by the small business preference provisions of 15 U.S.C. 644 where use of such preferences would not inhibit provision of crude oil from the naval petroleum reserves to the Department of Defense for the purposes of this subsection.

Allocation to strategic petroleum reserve of lower tier crude oil; use of Federal royalty oil

Section 805(a) directs the President to amend the regulation under 4(a) of the Emergency Petroleum Allocation Act so as to have the effect of allocating lower tier oil to the Federal Government for acquisition to deposit in the strategic Petroleum Reserve (SPR). Given the limited financial resources available to purchase oil for the SPR, this would increase the amount of oil that can be obtained to fill the SPR. The President shall implement this requirement through the use of the entitlements program, but not with respect to any crude oil acquired after September 30, 1981, for storage in SPR. Subsection (b) provides the President with discretionary authority (1) to place Federal royalty oil in the Reserve; (2) to exchange, either directly or indirectly, Federal royalty oil for other oil to be stored in the SPR; or (3) to transfer proceeds from the sale of Federal royalty oil a special Treasury account to be used to acquire more crude oil for the SPR.

Subsection (c) describes the special Treasury account into which are deposited the proceeds from the sale of entitlements and royalty oil. The account is available for use by the Secretary of Energy to purchase crude oil for the SPR, but such use is subject to any DOE authorization bill, and advance appropriation (after the date of enactment of this Act) is required.

There is one exception. Amounts in the account which are proceeds from the sale of entitlements under subsection (a) are available

the Secretary for fiscal year 1981 without any further appropriation.

Subsection (d) contains definitions of terms for this section.

In providing for the allocation of lower tier crude oil to the Government for storage in the Strategic Petroleum Reserve, the conferees could have simply directed the Government to attempt to acquire in fact only lower tier crude oil at lower tier prices, but this would have necessitated breaking supplier-purchaser relationships to acquire that oil. Or the Government could attempt to swap (with appropriate reimbursement) its oil for lower tier oil held by refiners or traders of crude oil, but protracted delay would have ensued. Instead of specifying these methods to acquire exclusively lower tier oil for the SPR, the conferees direct the President to use the entitlements program to achieve the same result, namely, providing to the SPR program the benefits of increased access to domestic price-controlled lower tier oil.

Use of the entitlements program results in the Government in effect paying lower tier prices for oil to fill the SPR, but avoids the delay and disruption in the marketplace that would accompany an effort to acquire the lower tier oil molecules themselves.

The approach adopted by the conferees follows the approach taken (and the basic purpose achieved) in the current entitlements program established under the Emergency Petroleum Allocation Act, as amended, namely, to spread the benefits of access to domestic, price-controlled crude oil equitably among all domestic refiners. The conferees would note that the approach adopted in subsection (a) is consistent with this basic purpose of the entitlements program, as the SPR would afford protection for all the Nation's refiners (and the public as well) from the potentially disastrous consequences of petroleum supply interruptions.

The conferees intend that the per barrel entitlements benefit that the Government receives when it purchases uncontrolled crude oil for the SPR will not exceed the difference between the average cost of uncontrolled oil and the lower tier price. Consequently, if the Government purchases spot market crude to fill the SPR the entitlements benefit will be the same as if it had purchased crude at the average price for uncontrolled oil. This creates an incentive for the Government to seek the lowest price uncontrolled oil it can obtain. However, there is no suggestion here that the Administration may refuse to purchase oil for the SPR because they prefer to wait for lower prices. The use of the entitlements program is a very limited opportunity as it expires September 30, 1981. The Government is unlikely ever again to find crude oil at what amounts to lower tier prices.

The conferees recognize that the entitlements program involves some delay between when crude oil is acquired and the time entitlements benefits are received. It is their intention that although after September 30, 1981, crude oil acquisitions will not be subject to the entitlements program, the Government will still receive the entitlements benefits attributable to oil acquisitions prior to that date even if these benefits are received after September 30, 1981.

Section 805(a)(3) was added by the conferees as a precaution to ensure that procedural requirements will not prevent the President from meeting the deadline of issuing amendments to the regulation within 60 days of enactment of this Act. The conferees urge the President to use the administrative procedures that would otherwise apply the extent that he can and still achieve the specified deadline.

In adopting subsection (b) the conferees are offering the President an additional means of facilitating SPR storage, namely the flexible use of Federal royalty oil. Under the Energy Policy and Conservation Act (sec. 160(a)) the Secretary of Energy already has authority to place Federal royalty oil in the SPR by storage, transport, or exchange. The conferees do not intend to override or place any restrictions on that authority of the Secretary of Energy.

The reference to an indirect exchange in section 805(b)(2) is intended to include matching purchase and sale transactions involving different parties.

In adopting subsection (b) the conferees do not intend to affect the provisions of otherwise applicable law regarding the sale of Federal royalty oil to small refiners and independent refiners.

It is the conferees' intent that the President, to the maximum extent practicable so as not to unduly disrupt existing supply contracts or other supply obligations, fully utilize the discretionary authority contained in section 805(b) to deposit Federal royalty oil, or oil traded for such oil, in the SPR. Furthermore, since it is the conferees' desire to minimize the disruptive impact on the world oil market of filling the SPR, in exercising this authority the President shall give first priority to directly inserting, and indirectly inserting through trades, Federal royalty oil in the SPR.

Section 805(c)(2)(A) states that use of the special account is limited "to the extent provided in advance in appropriation Act." This is intended to refer to appropriation Acts enacted after the date of enactment of this Act.

Finally, the term "proceeds from the sale of Federal royalty oil" is defined so as to exclude the disposition provided by current law to the States, to any reclamation fund, or any similar disposition of proceeds from the sale of royalty oil. Current law credits to the Treasury's account known as "miscellaneous receipts" all proceeds from the sale of royalty oil that are not earmarked for other disposition.

HENRY S. REUSS,
JIM WRIGHT,
WILLIAM S. MOORHEAD,
THOMAS L. ASHLEY,
JAMES J. BLANCHARD,
BRUCE F. VENTO,
THOMAS S. FOLEY,
DON FUQUA,
HARLEY O. STAGGERS,
JOHN D. DINGELL,
PHILIP R. SHARP,
ALBERT GORE, JR.,
STEWART B. MCKINNEY,
CHALMERS P. WYLIE,
JOHN WYDLER,
BILL WAMPLER,
ANTHONY MOFFETT. (Title V
only) (Solely for consider-
ation of Title V of the
Senate amendment),

RICHARD OTTINGER. (Title V only) (Solely for consideration of Title V of the Senate amendment),

KEN KRAMER. (Title IX only) (Solely for consideration of Title IX of the Senate amendment),

STEVE NEAL. (Title IX only) (Solely for consideration of Title IX of the Senate amendment),

Managers on the Part of the House.

HENRY M. JACKSON,

FRANK CHURCH,

J. BENNETT JOHNSTON,

DALE BUMPERS,

WENDELL H. FORD,

JOHN A. DURKIN,

HOWARD M. METZENBAUM,

SPARK M. MATSUNAGA,

JOHN MELCHER,

PAUL E. TSONGAS,

BILL BRADLEY,

MARK O. HATFIELD,

JAMES A. MCCLURE,

LOWELL P. WEICKER, Jr.,

PETE V. DOMENICI,

TED STEVENS,

HENRY BELLMON,

MALCOLM WALLOP,

ALAN CRANSTON,

HARRISON A. WILLIAMS, Jr.,

ADLAI E. STEVENSON,

ROBERT MORGAN,

DON RIEGLE,

PAUL SARBANES,

DONALD STEWART,

JOHN HEINZ,

HERMAN E. TALMADGE,

(Solely for consideration of Title II of the Senate amendment),

GEORGE MCGOVERN, (Solely for consideration of Title II of the Senate amendment),

JESSE HELMS, (Solely for consideration of Title II of the Senate amendment),

Managers on the Part of the Senate.

4. DEBATE IN THE U.S. HOUSE OF REPRESENTATIVES ON THE CONFERENCE REPORT (96-1104) ON S. 932, JUNE 26, 1980

PROVIDING ADDITIONAL DEBATE TIME AND WAIVING CERTAIN POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON S. 932, ENERGY SECURITY ACT

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 728 and ask for its immediate consideration. The Clerk read the resolution, as follows:

H. Res. 728

Resolved, That upon the adoption of this resolution it shall be in order to consider, sections 401(a) and 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, the conference report on the bill (S. 932) to extend the Defense Production Act of 1950, as amended, and all points of order against said conference report for failure to comply with provisions of clause 2, rule XX and clauses 3 and 4, rule XXVIII, are hereby waived: *Provided*, That debate on said conference report shall continue not to exceed four hours.

The **SPEAKER**. The gentleman from Texas (Mr. **FROST**) is recognized for 1 hour.

(Mr. **FROST** asked and was given permission to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi (Mr. **Lott**), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 728 waives certain points of order against the conference report on S. 932, the Energy Security Act of 1980, and, given the complexity of the conference report and the importance it has to our Nation's future energy independence, the rule also provides for 4 hours of debate.

As my colleagues are well aware, our Nation is subject to being taken economic hostage at any given moment. Our continued dependence on imported energy sources makes us susceptible to economic blackmail, and the price we have been paying and will continue to pay, until we find a way to lessen our dependence on foreign sources of oil and gas is staggering—our economy and the people of this country are in dire need of an answer to this ever deepening crisis.

Mr. Speaker, it was exactly 1 year ago today that the House took a first step toward lessening this dependence on foreign sources of oil, and in doing so, made a significant commitment to the Nation. At this time last year, we were plagued with gasoline shortages and skyrocketing fuel prices. Since then, the gas lines have disappeared and fuel stocks are plentiful, but the price of imported crude continues to rise and we continue our dangerous dependence on foreign producers for

most of the oil we consume. But, the people of this country should know that in the last year the Congress has been working and today we have before us a conference agreement that gives us a chance to establish energy self-sufficiency and to honor our year-old commitment to our country.

On this date 1 year ago today, the House approved a relatively ambitious synthetic fuels program. H.R. 3930, which amended the Defense Production Act, allowed the President to use the act's powers to stimulate the domestic production of synthetic fuels. This bill, as passed by the House, set a production goal of 500,000 barrels a day of crude oil equivalent by 1984 and 2 million barrels a day by 1990. That \$3 billion program was subsequently tacked on to S. 932 and was sent back to the other body. In the Senate, the synfuel production program proposed by the House was then re-referred to the Senate Committees on Banking and Energy.

The one-title House passed bill evolved into a 10-title bill on the Senate side, growing from a \$3 billion program of synthetic fuel production to a \$88 billion program creating a synthetic fuels corporation as well as incorporating wide-ranging provisions relating to solar energy, energy conservation, renewable energy resources and the strategic petroleum reserve. Passed by the Senate on November 8, the conferees first sat down on December 7 and worked diligently, until, on June 16, an eight-title bill was reported back to the House and Senate.

Those eight titles deal with synthetic fuels, biomass, alcohol fuels and urban waste, energy targets, renewable energy initiatives, conservation and solar energy, geothermal energy, acid rain, and the strategic petroleum reserve. The conference report was adopted last week in the Senate by a vote of 78 to 12 and today we have an opportunity to lend our approval to what our distinguished majority leader has said may be the most important legislation we will consider in the 96th Congress.

However, given the complexity of the conference report and the fact that it has evolved from a one-title House bill, the rule we are now considering waives a number of points of order against the conference report. First, the rule waives points of order under section 401(a) of the Congressional Budget Act. Section 401(a) prohibits the consideration of any bill which provides contract authority not subject in advance to an appropriations act. There are provisions of the conference report, for example, that allow the Synthetic Fuels Corporation to enter into contractual agreements for the development of synfuel plants and synfuel production and the Secretary of Agriculture is also given authority to enter into contractual agreements for the purchase of biomass energy.

Second, the rule waives section 401(b)(1) which provides that it shall not be in order to consider any bill which provides for enactment of entitlements which become effective before the first day of the fiscal year which begins during the calendar year in which said bill is reported, or in this instance, October 1, 1980. Since the affected portions of the conference agreement become effective upon enactment, the salaries prescribed for the Inspector General of the Synthetic Fuels Corporation, the Director of the Office of Alcohol Fuels in the Depart-

ment of Energy, and the president of the Solar Energy and Energy Conservation Bank are in violation of this section of the Budget Act, thus requiring the waiver.

Third, the rule waives points of order against the conference report for failure to comply with clause 2, rule XX which prohibits Senate amendments that make appropriations in a legislative bill. While most of the violations are technical in nature, section 805(b)(2)(B) literally appropriates money for the filling of the strategic petroleum reserve and thus expressly needs this waiver.

Fourth, the rule waives points of order against the report for failure to comply with clause 3 of rule XXIII, which prohibits the consideration of amendments which go beyond the scope of the bills committed to conference. The scope violations are throughout the conference agreement, but the most notable example is section 805 which mandates the resumption of the filling of the strategic petroleum reserve.

Finally, the rule waives points of order against the conference report for failure to comply with clause 4, rule XXVIII which prohibits the consideration of nongermane Senate amendments. As I noted to my colleagues, the conference report has grown from a one-title House bill amending the Defense Production Act of the eight-title conference report dealing with matters far beyond the purview of the act. Consequently, half of title I and the remaining seven titles are all non-germane to the original House bill, H.R. 3930.

As my colleagues are aware, the usual time allotted for consideration of a conference report is 1 hour. However, given the complexity of this proposal and the number of conferees from various committees, the Rules Committee has allotted 4 hours debate time. Mr. Moorhead, the chairman of the conference committee, proposes to yield blocks of time to chairmen of committees and subcommittees represented on the conference on a roughly equal basis. Mr. McKinney, the ranking member, intends to do likewise for the appropriate ranking members. Mr. Moorhead informed the Committee on Rules that the time would be yielded to the following: First, the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs; second, the Committee on Agriculture; third, the Committee on Science and Technology; fourth, the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs; fifth, the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce; and sixth, a reservation of time to clarify matters not completely covered in the debate and for the majority leader, who served as a conferee, to conclude debate.

Mr. Speaker, I would urge my colleagues to adopt this rule. This is a fair rule and without these waivers, it would not be possible for the House to consider this conference report. I do not have to remind my colleagues that a national energy emergency exists: Every time the leaders of OPEC nations sit down at a conference table, the price of imported oil rises; every time political events in the Middle East disrupt our supply of imported oil, the shockwaves reverberate throughout our country. The provisions of this conference report give us a chance to fight back. We have all heard enough rhetoric; we have all heard our constituents ask for help. It is time we took action, positive action, to show our country and the world that we intend to get out

from under the threat of economic blackmail, that we intend to do something constructive about lessening our foreign energy dependence. We are quickly approaching our Nation's 204th birthday, and I cannot think of a better gift to the Nation than a commitment, a plan, and a goal of energy independence.

Mr. Speaker, I urge my colleagues to adopt this rule and to adopt the conference report.

Mr. Lorr. Mr. Speaker, I yield myself such time as I may consume.

(Mr. Lott asked and was given permission to revise and extend his remarks.)

Mr. Lorr. Mr. Speaker, this rule allows 4 hours of debate on the conference report to accompany S. 932, the Energy Security Act. The rule waives section 401(a) of the Budget Act. This section bars consideration of any bill which provides new contract authority not subject to appropriations acts. Since various sections of the conference report fail to limit the availability of new contract authority for audits and studies of the Synthetic Fuels Corporation, the bill would be subject to a point of order.

Section 401(b)(1) of the Budget Act bars consideration of a bill which provides new entitlement authority effective before October 1 of this fiscal year. Various sections of the conference report would provide new entitlement authority in the form of fixed annual compensation amounts for certain individuals. Since these sections would become effective upon enactment and since the conference report was filed on June 19, it would be subject to points of order under this section. Consequently a waiver of this section was provided.

The rule also waives clause 2 of rule 20 against the conference report since the Senate amendments would make appropriations in a legislative bill. One such instance can be found in section 237 of the report which would allow the Secretary of Energy to establish a commercialization demonstration program and to provide financial assistance under the program.

Next there are waivers of clauses 3 and 4 of rule XXVIII, clause 3 pertains to scope and clause 4 relates to germaneness. These waivers are necessary since the conferees consolidated the one-title bill passed by the House with the 11 titles passed by the Senate. Consequently a number of provisions included in the final conference version were not considered by the House as part of its original synfuels bill.

Mr. Speaker, this is an extremely complex subject, and the legislation before us is a massive piece of legislation which deserves the most careful consideration by this body. The Rules Committee did provide for 4 hours of general debate which should be adequate time for Members to closely study the provisions of this major legislation.

I oppose the rule because of the excessive number of waivers.

Mr. Speaker, I would like now to yield 5 minutes to the gentleman from Maryland (Mr. Bauman).

Mr. Bauman. Mr. Speaker, I am opposed to this rule; I am opposed to the conference report it makes in order. This bill will pass overwhelmingly; the rule will pass overwhelmingly. The fact that the rule before us contains so many waivers should be an indication of the dangers that exist in the legislation.

Already in the very first speaker's remarks we have heard the magic phrase that will compel this House to pass this legislation. "Do some-

thing." Do something. We must do something, we are told. So like the lung cancer patient who keeps on puffing his cigars, and the incipient diabetic has to have that sugar in his coffee, and the alcoholic who is going to take just one more drink, to steady his nerves, we today will consider legislation that puts in place the Government as a solution of our energy problems. And there are very few Members of this House in private, and most in public, who would not admit that the massive energy problems we face today are a result of the Federal Government. The Government's mistaken policies have forced our national dependence on foreign oil imports and natural gas imports for 50 percent of our needs; that has made us a slave to OPEC. So we have before us a bill that started out with a modest 14 pages and now has grown to more than 400, a bill that will authorize \$20 billion to be dispensed by a 7-man board of directors—we know not who—and will eventually bloat to an expenditure level of \$68 billion. This is nothing but a warmed over version of the Rockefeller proposal of a \$100 or \$200 billion energy corporation, and the taxpayers will pay the price dearly.

If I were a major oil company or a wealthy investor with a desire to get into the synfuel business, I would rejoice at the windfall bonanza that this bill will hand to big business and big oil. They want legislation like this that will have the U.S. taxpayers guarantee prices, guarantee them a market to sell their products, guarantee them the capital available from the Federal Government, guarantee them the loans they will demand. And who will be served by this? The taxpayers will not; they will pay the bill. Ruinous inflation will increase still more because of the increased Federal deficit, and the net result will be to deny the kind of free-society choices that produce true expansion of our economy and true expansion of our energy supplies.

I doubt that but very few Members have been able to read this bill in the time that it has been before us. The summary alone produced by the Republican conference runs to 20 pages. The conference report was not signed by three of the minority participants in the conference, and they have detailed in their minority views their objections.

I do not know when we are ever going to learn that it is the Government that is the problem, not the solution. It is the Government that has stood in the way of American energy production. Why not give to energy production companies in this Nation tax credits and incentives to produce without having to finance them through this kind of legislation. Why not lift the onerous restrictions imposed on industry? In a few years Congress will come back, and will again address the energy problem. The judgment then will be that it is too bad we enacted this bill.

Fascism, I will say to the Members of the House, has been defined in part as a centralized autocratic regime exercising regimentation of industry, commerce, and finance. This legislation is fascism, pure and simple, by the dictionary definition.

Socialism has been defined in part as the collective or government ownership and control of the means of production and distribution of goods. This bill is socialism, pure and simple. All of the fine words

that we will hear in the next hours of debate aimed at dispelling the criticisms of the gentleman from Maryland will not remove the fact that this bill puts the Federal Government deeper into debt, deeper into control of our economic resources, deeper into producing more problems for energy production, and deeper into subverting the intention of the Constitution of the United States that never envisioned this; this tragic intrusion by Government into the private sector. We will rue the day when this kind of legislation passes, and I suspect that many Members who will vote to do this—to “do something”—will do so with the private conviction that they are perhaps wrong and that in fact the American people are not best served by this approval to a serious national problem.

I know how much the people want synfuels and gasohol and cheaper energy. All of those laudable objectives should and can be met, but this is not the way to do it. I hope that those of us who voted against this bill when it first passed the House will be joined by a few more hearty souls who are willing to publicly proclaim the mistake this bill embodies.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. Paul).

(Mr. Paul asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I would like to compliment the gentleman from Maryland for his statement because I wholeheartedly endorse everything he said.

This is one of the worst pieces of legislation I think that has ever come before this Congress. The intention is very noble; the intention is good. Synthetic fuels need to be developed, but if we look back through our history, we will find out that we—the Congress and the bureaucrats have been the ones—who have obstructed the development of synthetic fuels. We have never aided—and I do not have one moment of doubt that we will further hinder—the development of synthetic fuels with this type of legislation.

When this bill first came up in the Banking Committee and we voted on this under the Defense Production Act, it was a very, very modest proposal, a few billion dollars. Now it is up to \$25 billion with a potential plan for \$88 billion. And if things go the way they usually do around here, it will get into the hundreds of billions of dollars.

When the vote came in the Banking Committee, the bill was passed by 39 to 1. I happened to be the individual who opposed this, and when it was voted in the full House, there were about 25, I believe, who voted against the bill. It is, indeed, a sad day for us to go ahead and pass this outrageous bill. It has grown by leaps and bounds, and if we thought for a minute it could help, it would not be so bad. But I believe it is going to be money thrown down a drain because it is nothing more than a subsidy to a nonmarket venture. It is a nonmarket venture now to develop synthetic fuels under these circumstances. If it were advantageous to the American people or to the businessmen, somebody would do it. But everybody knows that it will cost more to develop synthetic fuels than to continue with conventional production. It is not lucrative to do it, so therefore, we have to call on the American taxpayer to pay the bill. It is tragic if we can pass the cost off to the unassuming taxpayer. The businessman does not take the

ask. We will help the businessman build his plants. We will allow all the risk to go on the shoulders of the American taxpayer, the little guy who cannot defend himself. But if there happens to be profit down the road in 5 or 10 years, then this profit will go into the hands of the businessman.

But there is a basic question here, that needs to be asked. The question that we fail to ask in this Congress every day, is, can we know? Can we know what is best for the economy? Can we know what the marketplace is telling us? Can we know what the people want? I do not think we ever address ourselves to that question. I happen to believe that we in the Congress, and the bureaucracy, and the computers, do not know and cannot know, what the marketplace is telling us. We may know generally that synthetic fuels are going to be necessary. I agree with that. But do we know they are necessary today? Do we know exactly how much the reserves are of gas and oil? No, we do not know. The most experienced geologists do not know. They disagree. So we do not know the instant and time when we must convert from gas and hydrocarbons over to coal or synthetic fuels or nuclear power.

So the issue is not so much, do we need it, as when we need it, and how we go through the transition. Erroneously we make a basic assumption when we come up with legislation like this that we, the Congress, know what is best, that we, the Congress—that somehow with our great wisdom—we can interpret the marketplace and know what the market is saying. The plain truth is that the Congress and all the bureaucrats, and all the computers in the world, cannot tell us what the marketplace is saying. It will only be the market that will determine what is best and when it is most economical. The fact that we come here and set up an \$88 billion program and pass the cost on to the consumer indicates we are defying the marketplace, and why we must force them to subsidize such a risky venture. In a free economy the consumer has the privilege of making all the economic decisions and are not forced to pay for the error made by the politicians.

The SPEAKER. The time of the gentleman has expired.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. Moorhead).

(Mr. Moorhead of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise in support of the rule on the conference report on S. 932, the Energy Security Act.

Mr. Speaker, the conference on S. 932 has been an adventure—a legislative adventure—such as I have never seen before.

It has been an adventure in compromise—creative compromise—to benefit the United States.

It was an adventure in cooperation—

Cooperation between the House and the Senate;

Cooperation on a bipartisan basis which put the Nation's interest above party differences;

Cooperation among the many House and Senate committees which are often jealous of their jurisdictions; and

Cooperation among staff members representing a dazzling array of House and Senate committees and different viewpoints.

The legislative product is something to which all of us can point with pride.

Twenty-three Members of the House and 35 Members of the Senate brought this about.

The staffs of 11 committees and subcommittees (aided and guided by Richard Olson of the majority leader's office and Lee Peckarsky of the Legislative Council's Office) brought this about. Naturally, I must pay special tribute to the staff members of the Economic Stabilization Subcommittee who were invaluable in pushing the first synthetic fuel production bill through the House of Representatives and are, I hope, seeing the final fruition of their efforts today (Ike Webber, Norman G. Cornish, Ruth M. Wallick and Dave Kiernan.)

Mr. Speaker, we have before us a monumental piece of legislation designed to meet the monumental energy problem facing the United States of America.

We need to adopt this rule to meet this need.

Remember that on September 23, 1976, we defeated a rule on an energy production bill by one vote.

This will not happen today.

When this rule is adopted, and in order to maintain the spirit of cooperation, I intend (and Mr. McKinney intends to do the same for the minority) to yield blocks of time to chairmen of committees and subcommittees represented on the conference on a roughly equal time basis.

This would mean that of the time allotted, one-sixth of the time would be yielded, not necessarily in this order, as follows:

First. Economic Stabilization Subcommittee (or Banking, Finance and Urban Affairs Committee) ;

Second. Agriculture Committee;

Third. Science and Technology Committee;

Fourth. Housing and Community Development Subcommittee (or Banking, Finance and Urban Affairs Committee) ;

Fifth. Energy and Power Subcommittee (or Interstate and Foreign Commerce Committee) ; and

Sixth. Reservation of time to clarify matters not completely covered in the foregoing debate and to reserve time for the majority leader as a conferee to conclude debate.

If I have insufficient time to yield to all Members who wish to speak, I hope Members who will be in charge of other blocks of time would yield.

Furthermore, I hope that Members having control of blocks of time will be able to complete their presentation in less than the allotted time because I believe that the Members of the House of Representatives realize that today is the day for decisive action.

Mr. Speaker, to make a long story short, this is the day.

This is the day we get off our knees and fight for energy independence.

This is the day the President of France referred to when he declared and, I quote :

I am now convinced that on the day the United States will really start to move in the production of synthetic fuels, there will be a major change in the world situation.

This is the day when we send a message to those unfriendly oil nations who would seek to blackmail us with rising prices, restricted supplies and force us to listen to other unreasonable demands. We once had a Revolutionary War flag that said it simply, "Don't Tread on Me."

This is the day we start the journey of a thousand miles with that single and yet so necessary first step alluded to by the late President Kennedy.

This is the day we cast a vote to be heard around the world. We are going to fight the battle of energy independence and we are going to win.

Mr. Speaker, let us all vote for House Resolution 728 and then for S. 932.

Mr. Frost. Mr. Speaker, I yield for purposes of debate only 5 minutes to the distinguished majority leader, the gentleman from Texas (Mr. Wright).

Mr. Wright. Mr. Speaker, I believe this to be the single most important bill upon which this Congress will have an opportunity to act this year. It may be the most important bill upon which we will act during this decade. This is a bill which has been too long delayed. It begins an initiative which we should have started in the 1950's.

In 1952, the Paley Commission appointed by President Truman warned us that we would run out of oil and gas and that we should begin immediately to build alternate sources against the day when our oil and gas reserves would be exhausted. We would not do that. Other nations with less resources than ours did so. South Africa began in the 1950's and today it has a thriving industry producing oil and gas from coal.

This day is one to which many of us have looked forward since a day in 1976, 4 years ago when, by 1 lone vote on September 23 of that year, the House failed to adopt a rule to take up a similar bill which would have permitted us to be 4 years ahead of where we are today.

Mr. Speaker, I, therefore, echo the sentiments spoken by the manager of the bill, the gentleman from Pennsylvania (Mr. Moorhead): I urge all of us to take this long, bold step forward today and take pride that the United States in its creativity has put forward a bill which will make a giant stride toward energy independence. I hope it will have an overwhelming bipartisan vote.

Mr. Frost. Mr. Speaker, I yield for purposes of debate only 5 minutes to the gentleman from Arkansas (Mr. Alexander).

(Mr. Alexander asked and was given permission to revise and extend his remarks and to include extraneous matter.)

Mr. Alexander. Mr. Speaker, today this body will act to set in place a major foundation stone for underpinning the energy security of this Nation. The Energy Security Act of 1980 covers numerous aspects of energy production and conservation providing new incentives and initiatives for the development of synthetic fuels, liquid fuels from biomass and urban waste, and a variety of solar and conservation measures.

I welcome the substantive initiatives in this bill which are directed at helping our Nation achieve energy independence. But, my support of this conference report is given with strong reservations about one provision of title I.

This provision makes this both an authorizing and an appropriations bill.

Such a provision is unwise because it robs the Congress of the ability to use appropriations oversight to insure that the Corporation stays on track in following congressional intent with regard to its operations.

Such a provision does violence to congressional efforts to get better management control over Federal spending and achieve the balanced budget that our people have told us they want. This provision is just one more brick in the wall of uncontrollable entitlements spending the Congress is building between Federal programs and Federal budget control and balance.

With those reservations noted, I would commend to my colleagues the record of the National Alcohol Fuels Commission hearings conducted last week. Those hearings addressed the major issues confronting the future of alcohol fuels production. Two of those issues will prove the pivotal components of whether ethanol from biomass and urban waste will prove feasible as a replacement for petrofuels. The first involves economics and the second, in the food or fuel controversy.

The economic question embraces a number of component issues:

First. Can investors in alcohol fuel production facilities expect a reasonable return on investment?

Second. Can ethanol be sold and marketed on a competitive basis with petrofuels without the subsidies and tax exclusions currently provided by State and Federal Government?

Third. What will be the corollary costs of retro-fitting existing and conventional liquid fuel engines to ethanol use?

Fourth. Will capital costs attendant to the development of distribution and marketing systems for ethanol drive costs too high to make alcohol fuels competitive?

Let me address each of these questions in turn.

Cellulosic conversion of forest, agricultural, and urban wastes into ethanol has already been proved feasible at scales approaching 50 million gallons per year. A Swiss plant, using largely spruce wood as feedstock, has achieved a price per gallon of \$1.54. The return on investment of that plant has exceeded 30 percent per year. Using feedstocks with little or no intrinsic values such as municipal and agricultural wastes, there is no question that alcohol fuels production will prove profitable to American investors.

The production of ethanol yields numerous salable byproducts, including distillers dry grain for animal feed and a range of marketable chemicals.

The conversion and retrofitting of liquid fuel engines to ethanol use is not likely to be a bar to increased ethanol use since the present best use of alcohol is as an additive to gasoline. All tests indicate that gasohol performs well in existing engines. For the mid-term, we will need to provide a system of tax credits for farmers and other prime users of liquid fuels to convert their engines to unblended ethanol use. I have introduced such a bill for the farm sector. It may be that similar measures will be necessary for the transportation industry as a whole.

Neither are capital costs for development of an alcohol fuels distribution system likely to become a problem. The major distributors

of petrofuels are becoming increasingly receptive to the marketing of gasohol and by the time sufficient amounts of ethanol are available for sale as an unblended fuel, it seems likely that public acceptance of the product will serve as sufficient inducement for distributors to make the necessary modifications to their storage and marketing facilities.

The second major issue—the food or fuel controversy—was eloquently addressed during the NAFC hearings by both Agriculture Secretary Bob Bergland and by Denis Hayes, Director of the Solar Energy Research Institute. Secretary Bergland asserted during the hearings that:

One billion gallons of annual ethanol production can be accommodated by an increase in grain supply in excess of the increased demand for grain for uses other than ethanol.

What that means is that our goal of 800,000 gallons of ethanol per year is realistic now. What improved productivity and development of agricultural feedstocks tailored for distillation of ethanol, there is every reason to believe that American agriculture can accommodate a developing alcohol fuels industry.

Simply put, we do not have to choose between food and fuel.

Portions of Mr. Hayes testimony on this matter before the NAFC follows:

The easiest way to overcome the potential conflict between energy crops and other crops is to increase the total production of harvestable biomass. For example, many hilly areas cannot be tilled for food crops without risking severe erosion, but can be cultivated with coppicing trees for energy. Many areas with soil too poor to support most crops can be farmed with energy crops. For example, Brazil is cultivating cassava as an alcohol feedstock on very poor soil, and proposals have been advanced to farm guayule, jojoba, and buffalo gourd in the Southwestern American desert. Energy crop production can also be increased significantly through better management techniques.

Relatively unproductive plants can be replaced with ones that produce more of the desired product. By selecting the best plants and growing their offspring, yields can be improved significantly. This process is not without some attendant risks as has been seen in the agricultural "green revolution." But if optimizing long-term yields is the goal, rather than maximizing short-term yields, significant improvements can be made without embracing monocultures and high fertilization techniques.

It is also possible that significant energy crops could be cultivated in aquatic and marine environments. A variety of fresh water plants have already been successfully cultivated in pilot projects, and substantial potential seems to exist to farm several species in a nutrient-rich environment provided by treated sewage. Ocean waters are rather barren of nutrients in the surface layers, but the mechanical upwelling of nutrients from the deeper layers can be accomplished by simple technologies that do not require much energy to operate. To date, such projects have mostly studied the feasibility of farming kelp for energy.

Ocean kelp farming is an interesting example of mutual benefits for both food and energy of certain new crops. Economics will probably dictate that energy not be the only product of kelp farming. A wide variety of valuable chemicals can also be obtained from the kelp, and sea animals—particularly abalone—will almost certainly be harvested as food. A kelp farm would never be established just to grow abalone, just to produce chemicals, or just to provide energy. But producing all three products, it may make excellent sense. Hence, in this case the production of a new energy crop could substantially increase the availability of a valuable high-protein food.

CONCLUSION

Alcohol fuels will not be a magic elixir to deliver us once again into the golden days of cheap gasoline. There is no such panacea. They are, and will remain, expensive relative to the fuel prices of a few years ago. They do, however, repre-

sent a real short-term opportunity to enhance our supplies of liquid fuels at costs that compete favorably with current OPEC prices.

Alcohol fuels are among the most attractive of the myriad options we must pursue in our quest for energy security. With a modicum of wisdom and far-sightedness, a substantial alcohol industry can be created that poses no major problems for the food and fiber sectors, or for the well-being of the environment.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Oklahoma (Mr. Watkins).

(Mr. Watkins asked and was given permission to revise and extend his remarks.)

Mr. WATKINS. Mr. Speaker, I stand here as a Representative from an oil-producing State. I, like many others, strongly opposed and voted against the windfall profit tax bill which would have provided more investment capital for domestic production and synthetic fuel production in the private sector.

Let me say, Mr. Speaker, I stand in favor of this synthetic fuels bill because I know it is for the defense of our great country. For the security of our country, we must move toward energy independence as quickly as possible. This bill will help our country move toward that independence.

Mr. Speaker, I would like to say to my colleagues in the House today, our country is spending over \$90 billion for foreign oil. Over 50 percent of the oil this country consumes comes from the Persian Gulf area which, to say the least, is an explosive situation. If we are concerned about the survival of our Nation, if we are concerned about the independent policymaking of our Nation, as Members of this House we should support this measure unanimously and send out a message across the world that we plan to move our country toward independence, that our country will no longer be held hostage and that our people will no longer be blackmailed. Our country will move forward and show the world that we shall survive.

Mr. Speaker, as the gentleman from Pennsylvania (Mr. Moorhead) and the gentleman from Texas (Mr. Wright) have pointed out, this could be the most important piece of legislation that our Congress has enacted, not just during this year or not during this session of Congress but through this decade for our country.

I thank you, Mr. Speaker.

Mr. LOTT. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 323, nays 86, answered "present" 2, not voting 22, as follows:

[Roll No. 871]

YEAS—323

r	Danielson	Hall, Ohio
bo	Daschle	Hall, Tex.
a	Davis, Mich.	Hamilton
ider	de la Garza	Hammerschmidt
'	Derrick	Hance
son, Calif.	Derwinski	Hanley
ws, N.C.	Dickinson	Harkin
ws, N. Dak.	Dicks	Harris
usio	Dingell	Heckler
ny	Donnelly	Hefner
gate	Dornan	Heftel
'	Dougherty	Hightower
	Downey	Hillis
son	Drinan	Holland
n	Duncan, Oreg.	Hollenbeck
'	Duncan, Tenn.	Holtzman
s	Eckhardt	Hopkins
rd	Edgar	Horton
s	Edwards, Ala.	Howard
, R.I.	Edwards, Calif.	Hubbard
	Edwards, Okla.	Huckaby
ison	Emery	Hughes
min	English	Hutchinson
tt	Ertel	Hutto
	Evans, Del.	Hyde
l	Evans, Ind.	Ichord
am	Fary	Ireland
hard	Fascell	Jacobs
	Fazio	Johnson, Calif.
d	Ferraro	Johnson, Colo.
g	Findley	Jones, N.C.
	Fish	Jones, Okla.
r	Fisher	Jones, Tenn.
r	Fithian	Kastenmeier
ard	Flippo	Kazen
i	Florio	Kildee
mas	Foley	Kindness
x	Ford, Mich.	Kogovsek
ley	Ford, Tenn.	Kostmayer
ead	Fountain	Kramer
s	Fowler	LaFalce
i, Calif.	Frost	Leach, La.
ill	Fuqua	Leath, Tex.
man	Garcia	Lederer
on	Gaydos	Lehman
n, Phillip	Gephardt	Leland
	Glaimo	Lent
bell	Gibbons	Levitas
r	Gilman	Lloyd
laugh	Ginn	Long, La.
ell	Glickman	Long, Md.
olm	Gonzalez	Lowry
	Goodling	Lujan
r	Gore	Luken
o	Gramm	Lundine
	Grassley	McClory
rs	Gray	McCormack
in	Green	McDade
:	Guarini	McHugh
, Daniel	Gudger	McKay
ours	Guyer	McKinney
	Hagedorn	Madigan

Maguire
Markay
Marks
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer

Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton

Stark
Steed
Steinbohm
Stokes
Stratton
Studds
Swift
Sykes
Tausin
Thompson
Traxler
Udall
Ullman
Van Deertin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolf
Wolpe
Wright
Wyatt
Wydler
Wyllie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—86

Archer
Ashbrook
Badham
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Brown, Ohio
Burgener
Burton, John
Butler
Carney
Carr
Cheney
Clausen

Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Devine
Erdahl
Evans, Ga.
Fenwick

Forsythe
Frenzel
Gingrich
Goldwater
Gradison
Grisham
Hansen
Hinson
Holt
Jeffords
Jeffries
Kelly
Kemp
Lagomarsino
Latta
Leach, Iowa

	Myers, Ind.	Sensenbrenner
n	Pashayan	Shumway
	Paul	Shuster
	Porter	Stump
	Quayle	Symms
	Railsback	Tauke
i	Regula	Taylor
	Rhodes	Thomas
	Robinson	Trible
	Rousselot	Vander Jagt
	Satterfield	Walker
	Schulze	Whittaker
l, Calif	Sebelius	

ANSWERED "PRESENT"—2

McCloskey

NOT VOTING—22

Ill.	Harsha	Patten
L	Hawkins	Runnels
J.	Jenkins	Stewart
	Jenrette	Stockman
	Mathis	Weiss
	Mica	Young, Alaska
	Miller, Calif.	
	Michell, Md.	

Clerk announced the following pairs:
his vote:

ca for, with Mr. Weiss against.

further notice:

nette with Mr. Young of Alaska.

Hums with Mr. Harsha.

dd with Mr. Erlenborn.

ler of California with Mr. Davis of South Carolina.

wkins with Mr. Mitchell of Maryland.

ewart with Mr. Runnels.

tten with Mr. Early.

thhis with Mr. Jenkins.

xon with Mrs. Collins of Illinois.

s. Porter, Carr, Marriott, Dannemeyer, Evans of Georgia,
niel, Lewis, and Deckard changed their votes from "yea" to

udd and Mr. Findley changed their votes from "nay" to "yea."

e resolution was agreed to.

result of the vote was announced as above recorded.

tion to reconsider was laid on the table.

GENERAL LEAVE

ROST. Mr. Speaker, I ask unanimous consent that all Mem-
y have 5 legislative days in which to revise and extend their
on the resolution just agreed to.

The SPEAKER pro tempore (Mr. Vento). Is there objection to the request of the gentleman from Texas?

There was no objection.*

ENERGY SECURITY ACT

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I call up the conference report on the Senate bill (S. 932) to extend the Defense Production Act of 1950, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. Vento). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 19, 1980.)

The SPEAKER pro tempore. Pursuant to House Resolution 728 and the rules of the House, the gentleman from Pennsylvania (Mr. Moorhead) will be recognized for 2 hours, and the gentleman from Connecticut (Mr. McKinney) will be recognized for 2 hours.

The Chair recognizes the gentleman from Pennsylvania (Mr. Moorhead).

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield myself 6 minutes.

(Mr. Moorhead of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, it is with deep personal pride and humility that I present to the House of Representatives our conference report on S. 932, the Energy Security Act.

My pride stems from the fact that the landmark legislation which this House passed by an overwhelming majority 1 year ago today is still the keynote of a major national program to develop a viable synthetic fuels industry. The House program in our original H.R. 3930 will lead the way in developing synthetic fuels for the national defense of our country.

My deep humility stems from the fact that this entire energy omnibus package—including synthetic fuels, energy conservation, solar energy, biomass fuels, geothermal energy, and a mandate to fill the strategic petroleum reserve—would have been impossible without the dedicated and unselfish help of the majority leader, 21 of my other colleagues in this House, 35 Senators and the many congressional staff members who worked hard and long hours.

When the House passed its synthetic fuels legislation last year by a vote of 368 to 25, the bipartisan leadership on both sides described the bill as the most important piece of legislation to come before this Congress in many years. I will let history be the judge of that.

S. 932, incorporating the House bill, now contains many titles. Here is a quick overview. Title I merges the House and Senate approaches to synthetic fuel development. Title II calls for a separate effort to encourage fuel production from biomass, including farm commodities and urban waste. Title III sets up a procedure for the congressional consideration and review of energy targets for this Nation. Title IV promotes renewable energy initiatives. Title V establishes a Solar

*Portion of Record not pertinent omitted.

and Energy Conservation Bank to provide subsidized loans to Americans making energy conservation improvements or installing solar systems in their homes and businesses. Title VI encourages the development of geothermal energy. Title VII calls for comprehensive environmental studies of acid rain and carbon dioxide. Title VIII requires the strategic petroleum reserve to be filled at the minimum rate of 100,000 barrels per day.

This is a multifaceted program and attacks this country's energy problem on many different fronts. House committee and subcommittee chairmen and their ranking members, who played the lead roles in negotiating these titles, will describe each in more detail. My remarks will focus primarily on title I.

The purpose of title I is to accelerate the development of a synthetic fuel industry in the United States. To accomplish this objective, this title is divided into two parts. Part A, which amends the Defense Production Act of 1950 (DPA), provides authority for a "fast start" interim program utilizing existing Federal departments and agencies to expedite the development and production of synthetic fuels to meet national defense needs. The President of the United States is directed to put this program into effect immediately upon enactment. The conferees believe that no time should be lost during the period before the U.S. Synthetic Fuels Corporation established in part B becomes "fully operational." Once the President has determined the Corporation is "fully operational," these part A authorities are placed on a "standby" basis for possible reactivation in serious energy supply shortage situations. The two parts of title I are separate and independent authorities.

However, any existing contracts in the "fast-start" interim program of the Defense Production Act may be renewed and extended subject to the appropriation of funds after the President's determination.

Much has been made about the necessity to create a one-of-a-kind Federal corporation to foster the development of synthetic fuels over the next 12 years. We did our best to give the new U.S. Synthetic Fuels Corporation the needed flexibility and, at the same time, maintain prudent control over its activities.

But, of course, the Corporation is only a name on a piece of paper right now, and it will take a number of months and possibly longer before it is "fully operational." That effort, of course, should be expedited.

Meanwhile, the House DPA program will go forward. The conference report before you directs the President to take immediate action to achieve production of synthetic fuels to meet national defense needs, utilizing the provisions of the Defense Production Act and any other applicable provision of Federal law.

Whenever needed, the President would be expected to invoke authorities of the DPA requiring the allocation of needed materials and equipment, or the priority performance of contracts or orders to make certain this synthetic fuels effort moves rapidly ahead without delay. These authorities were exercised in building the Alaskan pipeline and brought about its completion a year earlier.

Let me just say this. A lot of American firms have contracts to build energy projects overseas and those plants use much of the same equip-

ment necessary for synthetic fuel plants. Well, America is not going to the end of the line and wait its turn for items in short supply. America is going to the head of the line.

The legislation provides that these authorities be exercised through the Department of Defense in partnership with the Department of Energy and any other Federal department or agency the President designates.

I am pleased to inform the House that the Department of Defense is prepared to issue the first of a series of requests for synthetic fuel proposals shortly after the President signs the bill. The Defense Fuel Supply Center will be seeking proposals for the production of 300 million barrels of liquid fuels made from coal and shale. I believe American industry will respond in a highly competitive way to these solicitations judging by the large number of commercial proposals recently received by the Department of Energy.

The Federal financial incentives involved include price guarantees with purchase agreements as the primary vehicle followed in priority by loan guarantees and direct loans, if necessary.

Three billion dollars is authorized in S. 932 for this purpose, but it may not cost the taxpayer a dime. This is because any subsidy involved in the price guarantee is paid only if the cost of the synthetic fuel in the marketplace is below the Government contract price at the time of delivery. All signs point to the reverse taking place with the rising cost of imported oil. It is very likely the cost of synthetic fuel will be higher in the marketplace than the Government contract price at the time of delivery. In that event, the Federal Government stands to save millions of dollars.

I might say at this point that a similar provision applies to the U.S. Synthetic Fuels Corporation when it takes over in the future for the Defense Production Act program.

In interpreting who may or may not be a "qualified concern," it is intended that the Corporation give consideration as to ways in which competition may be encouraged within the synthetic fuel industry by providing financial assistance to those concerns which can demonstrate to the satisfaction of the Board that they have, or will have, the technical and engineering experience and capability directly, or by contract, to construct and operate a synthetic fuels plant, but which otherwise would not be able to finance such a project without such assistance.

Title II of S. 932 provides for a major program to develop commercial production of fuels and energy derived from biomass resources and urban waste under programs administered by the Department of Energy and the Department of Agriculture. It is mandated that priority be given to liquid and gaseous fuels. In that connection, we urge that major attention be given to commercializing processes which utilize cellulosic conversion as quickly as possible. In regard to industrial waste, the potentialities of using higher sulfur petroleum coke also should be given attention.

The U.S. Synthetic Fuels Corporation will be an independent Federal entity with a seven-member Board of Directors appointed by the President and confirmed by the Senate. It will be empowered to provide various forms of financial assistance for commercial syn-

hetic fuels development to the private factor, much in the fashion of the Defense Production Act.

These fuels—as in the case of the DPA—will be made from coal, shale, tar sands, heavy oil, and even water, as a source of hydrogen. Also eligible for financial assistance are coal-oil mixtures and any magnetohydrodynamic or MHD topping cycle used solely for the commercial production of electricity.

The financial resources available to the Corporation over its 12-year lifetime would total up to a maximum of \$88 billion. The first phase over the next 4 years would authorize \$20 billion for the Corporation. At that time, a comprehensive strategy would be submitted to Congress for phase two, along with a funding request up to \$68 billion in the form of a joint resolution.

Now these sound like mind-boggling sums of money. But what we are really talking about is mostly private capital generated by Federal guarantees, loans and joint ventures. In other words, money that will be repaid. The Senate wanted the total figure to be used to reflect what the cost would be if everything in the entire effort failed and not a penny was recovered. This would be the so-called worst case.

There are no revolving funds in the Corporation or the DPA. Every dollar would be checked off the appropriation as each contract is made, even though it is not actually spent.

Eighty-eight billion dollars over 12 years is a lot of money. Is it so much? Will it harmfully divert money from our capital markets? Hardly, when you consider America will pay \$90 billion this year alone for foreign oil with all of the attendant inflationary pressures this inflicts on the American people—the loss of jobs—the recession we are now suffering.

I would argue that America has an unprecedented opportunity in this legislation before us.

We can build a new industry to help solve our energy crisis.

In the process we can create thousands of new jobs in manufacturing, fabrication, construction, plant operations and support activities.

We can veritably launch a new economic cycle by creating real wealth in the very classic sense.

We can provide a meaningful new Federal, State, and local tax base.

We can make available clean fuels to America for our autos, homes, industries and utilities.

We can make America militarily defensible again.

I ask this House today to stand up and face the energy challenge before us in the truest tradition of our great country.

This is the day we can get off our knees.

Mr. McKINNEY. Mr. Speaker, I yield myself 9 minutes.

(Mr. McKinney asked and was given permission to revise and extend his remarks.)

Mr. McKINNEY. Mr. Speaker, a year ago the House issued a challenge to the Senate by passing a synthetic fuels bill for the first time since 1944. Five months later the Senate raised the ante by passing a much more comprehensive energy package. After 6 months of difficult negotiations by the largest House-Senate conference in history, agreement was reached and the Energy Security Act was passed by

the Senate last week. The ball, my friends, is now back in our court.

Although the original House bill was a simple approach, the conference report contains eight titles. Title I consists of two parts which provide incentives for the commercial production of synthetic fuels. Part A makes use of the Defense Production Act to get some synfuels action underway immediately. These authorities would continue until the U.S. Synthetic Fuels Corporation established under part B is operational and can take over the permanent responsibility for getting a synthetic fuel industry up to full speed. The Corporation would cease to exist after 1992 by which time it is hoped there will be at least 2 million barrels per day of synfuel production. S. 932 provides a \$20 billion authorization for this program. Within 4 years the Corporation must submit a comprehensive production strategy designed to reach an interim goal of 500,000 barrels a day by 1987 and the 2-million-barrel goal by 1992. Subsequent installments above the initial authorization must be authorized and appropriated separately. The total amount cannot exceed \$88 billion.

Title II establishes a comprehensive biomass and alcohol fuels program through a coordinated effort by the Department of Energy and the Department of Agriculture. The aggregate funding for this part of the biomass program is \$1.2 billion through fiscal year 1982 divided evenly between the Departments. Also, a separate urban waste program is created in DOE funded at \$250 million.

Title III sets energy targets which the President is required to prepare and submit annually as a title of the DOE authorization bill. The purpose of the title is to establish a process for congressional debate and vote on, and for Presidential approval of, comprehensive and consistent energy targets for the United States. No new funds are authorized for this title.

The renewable energy initiatives in title IV include solar commercialization, information dissemination, energy programs in new and renovated Federal buildings, use of photovoltaic systems and small-scale hydro initiatives. To implement these programs, a total of \$23 million is authorized for fiscal years 1981 and 1982 to be used under existing statutes.

Title V establishes until 1987 a solar and energy conservation bank within HUD to subsidize energy conservation improvements or to install solar equipment in residential or commercial buildings. The bank is authorized \$2.5 billion for fiscal years 1981-84 for conservation loans and \$525 million for fiscal years 1981-83 for solar purposes.

Title VI establishes financial assistance programs in DOE for feasibility studies and construction of specific geothermal energy projects. For the period fiscal years 1981-85 a total of \$85 million in loans and loan guarantees is authorized for reservoir confirmation and in fiscal year 1981 there is \$5 million for feasibility studies.

Title VII establishes an interagency task force to conduct a 10-year research program funded at \$45 million into the causes and effects of acid precipitation. A 3-year study of carbon dioxide levels in the atmosphere is to be conducted by the National Academy of Sciences for which \$3 million is authorized.

Title VIII requires the President to resume filling the strategic petroleum reserve at the minimum rate of 100,000 barrels a day.

Although I have criticized the Senate for turning our 15-page bill into a 300-page volume, I have done so in a good-natured fashion. Our colleagues developed a broader approach incorporating synfuels production, development of alternative energy sources, and energy conservation—all essential elements of a rational energy policy and something long overdue in this country. The Senate, in effect, challenged the House to do no less in developing and implementing a national goal of energy self-sufficiency.

The House conferees were dedicated to meet that challenge and have done so by improving upon the original bills from both Houses. The Energy Security Act is a very important step in the right direction. We in the United States cannot afford to forget—as we have so often in the past—that we must act today to get ready for tomorrow. We may not have gas lines this summer, but we may not have enough heating oil next winter or any gasoline next summer depending on how our OPEC suppliers feel toward America. Such an uncertain future demands that we pass this bill.

I do not believe that I have worked on any legislation during my years in Congress that will have such a significant impact on our Nation's future. I believe that this program to develop energy self-sufficiency is so important that without this we inevitably face either major war or the loss of democracy. And in either case the American people are the losers.

My support for this legislation is explained in simple terms that all Americans can understand. The longer our country remains indefensible through reliance on imported oil—the longer American foreign policy is dictated by oil-producing nations—the longer America's economic stability is dependent on imported fuel prices—

Then the higher will be our foreign deficit and the weaker will be our economy;

The higher will be inflation as seen in food prices, gasoline, heating oil, and other necessities;

The weaker will be America's voice in international affairs;

The greater will be the instability and acts of violence in countries around the world; and

The longer nations will try to kick desert sand in America's face.

If you believe the United States should be able to defend itself in the future, you should vote for this conference report. The potential for war of major proportions exists as a result of our depending on foreign energy sources. "Embargoes, threats and blackmail are very real concerns now because we are at the mercy of our petroleum suppliers," said last June in support of this bill. Since November 4 I have had to add the kidnapping of American diplomats to the list.

If the price tag on this bill bothers you, keep in mind that more than \$20 billion will be spent on foreign oil this year alone. A program to spend \$20 billion over at least 5 years to develop a domestic synfuels industry is almost insignificant when compared to ten times that much being authorized for the defense budget, for planes, ships and tanks that cannot move without petroleum. If this Nation is going to be able to protect itself, if we are going to be able to conduct our own foreign policy, it is absolutely imperative that we develop an independence from outside energy suppliers. Without such independence we con-

tinue to be vulnerable to military and economic attack, the latter at least as devastating to our country as the former since energy self-sufficiency is as fundamental to the future as national defense.

Although American independence was declared in 1776, it was, we realize, a statement of principles and represented a goal for which we as a nation were willing to fight long and hard battles. That spirit, I believe, is as strong today as it was over 200 years ago. And this generation of Americans is as willing to do what is necessary to protect those basic freedoms which meant so much to our forefathers. I hope future generations of Americans and throughout the world will be able to look back at our action today as having as great an impact on the world as did the first American Declaration of Independence.

In closing, Mr. Speaker, I must pay tribute to my close friend, the chairman of the Economic Stabilization Subcommittees, whose inspiration and leadership on this legislation will have as its testimonial the Energy Security Act of 1980. It has been a great pleasure to work with Bill Moorhead, especially during our subcommittee tenure of the past 4 years. We have accomplished much and it is truly fitting that such a major accomplishment be the last jewel in his congressional crown.

Mr. MOORHEAD of Pennsylvania. I thank the ranking member of the subcommittee, who has done such a brilliant job on this legislation.

Mr. Speaker, I now yield 2 minutes to the gentleman from Michigan (Mr. Blanchard).

(Mr. Blanchard asked and was given permission to revise and extend his remarks.)

Mr. BLANCHARD. Mr. Speaker, I want to pick up on what the ranking member, the gentleman from Connecticut (Mr. McKinney) has just said.

I rise in support of S. 932. I think any objective analysis of it will yield the fact that this will be the major energy production initiative in America, beginning when the President signs this into law.

The role of Chairman Moorhead and the ranking member, the gentleman from Connecticut (Mr. McKinney), and their excellent staff brought it all about. We are going to hear a lot of ballyhoo about the administration and the Senate's role, but I would like to point out a few interesting dates for our colleagues and for the record.

The commitment of the gentleman from Pennsylvania (Mr. Moorhead) to developing synthetic fuels stems back several years. It was not just last year, but back easily until 1975 and before. It was back on March 13, 1979, our subcommittee began hearings on this synthetic fuel initiative.

The Committee on Banking, Finance and Urban Affairs passed the bill, much to the surprise of many, on May 8, by a vote of 39 to 1. This was long before the gas lines of last year and the ballyhoo and hoopla and campaign promises and platforms and brochures, and long before the cause was popular. The idea of a major synthetic fuel initiative was still controversial for a number of reasons.

Later what became known as H.R. 3930, came to this House. It was 1 year ago today exactly. For reasons which are self-evident, it passed by a whopping vote of 368 to 25.

Still later, the President announced his initiatives, and then the Senate announced and worked on its initiatives. Finally, as my colleagues know, we have had about a 6-month conference to iron out differences.

The SPEAKER pro tempore (Mr. Bennett). The time of the gentleman from Michigan (Mr. Blanchard) has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, there have been so many demands for time, our time is limited here; but I yield the gentleman 1 additional minute.

Mr. BLANCHARD. Mr. Speaker, let me simply conclude by saying that if anybody ever doubts the role that one person can have in getting the ball rolling on an important issue affecting his or her time, they can look at the career and record of the gentleman from Pennsylvania, Bill Moorhead, and those who have helped him. We are going to miss the gentleman very, very dearly. Those of us on the subcommittee, those of us on the full Banking Committee, those of us in the House and also those people everywhere who believe that politics can be a force for good, progressive, and farsighted action are going to miss the gentleman from Pennsylvania, Bill Moorhead. We thank him for his service to this country, to good government and to politics. We say, "Thank you, Bill Moorhead."

Mr. MCKINNEY. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. Wylie).

(Mr. Wylie asked and was given permission to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Connecticut for yielding me this time. I take the time to urge in the strongest possible way I can vote in favor of the conference report to cut the chains that bind America to foreign oil. For 14 years I have watched Congress debate energy issue after energy issue, resolving few, postponing some, eliminating most; yet until today, after all has been said and debated, no single energy project of any significance has been begun which would free this country of its energy dependence on foreign oil. If anything, bureaucratic and congressional mismanagement, contradiction, and overregulation have exacerbated our oil shortage. We have just plain run out of time.

Admittedly, this is a costly and complicated bill, but there is no subject in the bill that we should not address. We can cross t's and dot i's forever, but that will not produce any energy.

The bill authorizes \$20 billion over a 4-year period. Sure, that is a lot of money; but last year the consumers of this country paid over \$94 billion to foreigners for imported oil.

More importantly is the danger to our national defense, which has been alluded to. We passed a budget resolution recently calling for \$153.7 billion for national defense; yet our ships, planes, and tanks, cannot run without oil. A major disruption in oil supply from the Persian Gulf would be disastrous. Yes, our national defense is worth more than \$20 billion.

I support the bill because of the major emphasis on coal, our ace in the hole. The technology to produce gas and oil from coal is here. It is expensive. We must mass-produce liquid coal and make it less expensive.

I think that we can get the job done through the incentives program of loans, loan guarantees, and purchase agreements provided for in this bill.

If I may get provincial, I think that the title program could spur employment in Ohio in the coal, in the steel, and manufacturing industries where the unemployment rate is now the second highest among the States.

I support the bill because it contains an achievable biomass and alcohol fuels program.

I might say, I submitted the work of this conference to representatives of the Ohio Farm Bureau Federation and the Ohio Department of Energy on the alcohol fuel section. They endorsed the provisions wholeheartedly.

In one county in my district, Madison County, farmers have enough surplus corn right now to produce enough alcohol to make them energy self-sufficient in their farm operations. All they need is some startup money for costly construction projects.

Title V is not too dissimilar from the bill reported out of the Banking Committee to develop solar energy and to make conservation improvements in residential and commercial buildings.

We have a very serious problem. I cannot imagine how our country got into the situation we are now in. A handful of bandits just increased the price of oil again. It was an unconscionable increase. Apparently, we cannot convince them that it is in their best interests not to drag us down. Their theory is to get it now.

All of the alternative suggestions I have heard would take too long. This bill is oriented to the private sector to help get the job done. Failure to pass this bill today would mean another headstone in the graveyard of dead energy projects and an even more vulnerable America.

I urge adoption of the conference report.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Minnesota (Mr. Vento).

(Mr. Vento asked and was given permission to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I rise in support of the conference report on S. 932. As a conferee, I can attest to the long hours of hard work that have been committed to this proposal by Members and staff. I would like to commend each one for their dedication to producing a bill which is a long stride forward in our efforts to lessen our dependence on foreign oil. I would particularly like to commend the chairman of the conference, Mr. Moorhead, for his commitment to the goal of synthetic fuels development. Under his leadership, the Economic Stabilization Committee drafted and the House overwhelmingly approved the initial keystone proposal to spearhead the development of a private synfuels industry, was endorsed by the administration after it passed the House and expanded by the Senate. This initial legislation of course grew in the Senate to the historic bill now before us and Mr. Moorhead, as chairman of the conference, is responsible for the awesome task of coordinating the differing views and priorities of conferees into a sound workable package.

S. 932 is an important step in the development of a national energy policy. It sets forth ambitious goals and programs to develop alternative domestic resources such as solar, synfuels, biomass, and to encourage energy conservation by the American people.

This country and the world is facing a severe energy problem. Our supply of conventional energy sources such as oil is finite while the demand for these resources increases daily. Obviously industrialized societies, such as the United States, are more dependent upon these resources and face a greater threat from inadequate supplies—not only in terms of energy, but also as a threat to our economic well being. We must free ourselves from that threat by developing alternative domestic resources. We have lost too much time with tangential issues and are living in peril while our tremendous resources of coal, oil shale, gas sands, biomass, solar and conservation, which surpass in magnitude the oil from the world's reserve, lie relatively untapped. The conference report before us is an important step to change that. It will unleash American know-how to help resolve our energy problems.

S. 932 will, however, not directly result in any new oil or energy savings. What we are doing is establishing programs to redefine and achieve those goals. For these programs to be successful, it will require the dedication and total efforts of the American public, industry, and Government. Without that cooperation, we will not achieve the desired results.

Mr. Speaker, no legislation is perfect. There is a continuing need to review and modify any law to meet the needs of our evolving society and S. 932, a massive undertaking, is no exception. Congress will have to review the programs established by this act and make any necessary changes in the future. However, we have established a sound basis for lessening our dependence on foreign energy upon which we can act and build. I urge my colleagues to support this measure.

Mr. Speaker, I wish to ask the distinguished chairman of the Science and Technology Committee several questions regarding title VII. I am most pleased that the conference incorporated the Senate-passed title on the acid rain study into the final product. This title, which attempts to build upon the acid rain task force established by President Carter's memorandum of August 2, 1979, recognizes the serious threat presented by acid precipitation. This problem has already impacted upon areas throughout the United States including the Boundary Waters Canoe Area in northern Minnesota. Unless checked, the area and significance of the impacts of acid rain will grow. The inclusion of this title underlines our commitment to control and eliminate acid rain. The task force's research and recommendations will provide Congress, the administration, and the public with desperately needed data to deal with the problem.

In establishing the task force, the conferees agreed that the national laboratories can play a major role in the research on acid precipitation. With this in mind, the conferees directed that the national laboratories be represented on the task force and under the direction of the joint chairmen, the Administrators of EPA and NOAA, and the Secretary of Agriculture, manage the technical aspects of the Federal acid precipitation research and development programs. I would like to

ask the chairmen whether it was the intent of the conference to have the national laboratories on the task force as voting members.

I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Speaker, no, it was intended that the national laboratories be members of the task force but not to participate as voting members. The national laboratories are already significantly involved in acid precipitation research and their expertise in scientific research will be invaluable in dealing with this issue. However, as voting members of the task force, a conflict of interest could arise over the direction or expenditures of the task force.

The conferees intended that the national laboratories be utilized for their scientific capabilities and in the management of the research program and under the direction of the joint chairmen of NOAA, USDA, and EPA, and in addition, allowing the national laboratories to vote could, in effect, give the agents, the four laboratories, five votes, which was never the intention of the conference.

Mr. VENTO. Mr. Speaker, I thank the chairman for his thoughtful response.

Mr. Speaker, at this point I place into the Record the August 2, 1979, memorandum from the President entitled "Acid Rain Research Program."

The memorandum is as follows:

[Memorandum from the President, Aug. 2, 1979]

ACID RAIN RESEARCH PROGRAM

(Memorandum for the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Energy, the Secretary of Commerce, the Secretary of State, the Administrator of the Environmental Protection Agency, the Director of the National Science Foundation, the Chairman of the Council on Environmental Quality, the Director of the Office of Science and Technology Policy.)

In my Environmental Message of August 2, 1979, acid rain was identified as a major global environmental problem. However, our knowledge of possible effects and specific causes of acid rain are inadequate for determining what kinds of controls would best mitigate the problems caused by acid rain. It is important that we undertake efforts to describe the magnitude of acid rain effects, to develop a more thorough understanding of its causes, and to identify measures which can mitigate acid rain impacts.

To meet these goals, we must establish a comprehensive federal acid rain research program. In order to increase the program's effectiveness as well as to reduce its costs, research should be coordinated with states and private research efforts, particularly large industry efforts. Finally, in undertaking the federal acid rain research program, we should work closely with Canada, Mexico, other nations, and international organizations which are concerned about acid rain.

I therefore direct that:

A standing Acid Rain Coordination Committee be established comprised of policy representatives from each of your agencies.

The Committee shall be co-chaired by the Department of Agriculture and the Environmental Protection Agency. The Council on Environmental Quality shall serve as the Executive Secretary of the Committee.

The Committee shall plan and manage a comprehensive acid rain assessment program. A Federal Acid Rain Assessment Plan shall be completed by January 1, 1980. The Plan shall identify necessary coordination mechanisms to ensure that the results of the assessment program will be incorporated in agency planning and decisionmaking.

The Committee shall seek cooperation of state and private research efforts, particularly industry research programs, which are conducting acid rain research so that to the extent possible duplicative research is eliminated and research is jointly planned and conducted.

Through the Secretary of State the federal acid rain research program shall be coordinated to the extent possible with similar efforts in Canada and Mexico as well as with other Nations and international bodies.

Consistent with established procedures of the agencies chairing the Committee, the Committee shall actively solicit public involvement in its planning and reviews of the research results of the Committee's program; workshops, public hearings, and other techniques should be utilized.

The Committee shall prepare and submit to the President by September 15 of each year an annual report which shall present the results of the acid rain assessment program and make recommendations as appropriate. This report shall serve as a planning document for focusing agency programs to meet the objectives of the acid rain research program.

JIMMY CARTER.

Mr. Speaker, just in summary, I think this proposal of this entire conference will go a long way toward providing us with less dependence on foreign sources. While it has been greatly expanded, I think each one has received thoughtful consideration. I know that I have received many communications over the 6-month conference from a variety of our colleagues interested in various aspects. I would commend you to vote for it.

Mr. McKINNEY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. Paul).

(Mr. Paul asked and was given permission to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from New York.

(Mr. Green asked and was given permission to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, I thank the gentleman from Texas. I simply want to say that I am proud to have been in on the genesis of this legislation under the distinguished leadership of the gentleman from Pennsylvania (Mr. Moorhead) and the gentleman from Connecticut (Mr. McKinney).

Mr. Speaker, the Energy Security Act may well be one of the most important acts we consider in this Congress. Our dependence on foreign oil has jeopardized the independence of our foreign policy, played havoc with our economy, and helped send us into an unprecedented inflationary spiral that has caused hardship for the American people and industry.

Because energy security and independence is essential to the United States and production of at least 500,000 barrels of crude oil equivalent per day of synthetic fuels by 1987 will significantly reduce the U.S. dependence on foreign oil, I cosponsored the original synthetic fuels bill and was privileged to participate in the formulation of this legislation as a member of the Banking Committee's Economic Stabilization Subcommittee. We all realize that the costs of synfuel development may be substantial, but we cannot leave this component of a sound energy policy undeveloped. I therefore commend the conferees for bringing us this bill.

Developing alternative fuels and energy systems, however, should be accomplished by encouraging conservation of our limited energy supplies. Indeed, conservation offers us our best chance of making immediate significant reductions of oil imports. Thus, I am also pleased to note that my efforts in the Housing and Community De-

velopment Subcommittee to amend the President's Solar Bank bill to cover energy conservation as well—even when no solar installation is contemplated—have been preserved in the conference report. Other of my amendments that the conference report has preserved enable multifamily residences to be eligible for energy audit programs, allow tenants and owners of large multifamily rental and cooperative apartment buildings to qualify for solar and energy conservation subsidies and provide subsidy payments for installing individual metering systems where one meter previously monitored a multifamily residence's utility use.

All in all, this bill represents a major step toward establishing an energy policy for the United States, and I urge my colleagues to support it.

Mr. PAUL. Mr. Speaker, earlier in the debate I asked the question whether or not we as a Congress can know what is best for the economy. Can we make decisions as major such as this, deciding which fuel should be developed and where the money should be spent.

I truly believe that we cannot. I do not believe that we are capable of having that much knowledge and our past record would indicate this. I do not believe that we as a Congress have a very good record in making correct economic decisions.

I would like to ask another question of this body. Is it really a proper function of Congress to do such a thing? Have we been given the authority to do this? Is it a proper legislative procedure to have a program extracting \$88 billion out of the economy and out of the pockets of the average American taxpayer and put it into the pockets of somebody else for their particular benefit?

I, for one, do not believe that this a proper function of Government. If we look at what we are trying to do here, I believe 100 percent of us would agree that our goals are very similar.

We all want to be energy independent. I have not heard one individual in the time I have been in Congress that indicated somehow or another they would like to see us dependent on the Arabs for our energy sources. I really have not seen very many people oppose an across-the-board development of synthetic fuels. I happen to endorse wholeheartedly the development of synthetic fuels. I think they are very necessary.

My question is: Who should do it, at what place, and what should the specific decision be? Who should make these specific decisions?

Government only occasionally makes a correct economic decision, for the most part. I am firmly convinced Government misdirects the economy. They make bad decisions and then the people pay the penalty. Then, when we correct the problems we have created, it is much more expensive than if we would have just allowed free individuals in the marketplace to solve our problems.

It is this misdirection I am concerned about. In the 1950's we really got into the energy business with energy price controls. We priced natural gas much lower than the market price and, in doing this, we disturbed the marketplace. At that time there was a good bit of solar energy development spontaneously prior to 1950. When gas became plentiful and cheaper due to Government action, the efforts made on a voluntary basis to develop solar power were put aside.

Also, Government interfered in the marketplace in the 1980's when it was decided that people on farms needed cheap energy, and the Congress being very compassionate provided cheap energy for them. We subsidized and we gave them low-interest loans and, therefore, the people in the cities paid for the energy in the rural areas.

But, in doing this, we have curtailed all of the normal and natural development of wind power. There were private wind power companies in existence in the 1920's that were wiped out of business because they could not compete with the subsidies of big Government.

Therefore, we hindered the development of solar power and we hindered the development of wind power. Now we come along and take money out of the economy to develop solar power and develop wind power and do all of these things that we believe now are now necessary, but are probably 30 years late. I believe we do this with good intentions, but we do it at the wrong time. Maybe the best thing for the American people today is the development of nuclear power. This the Government and the bureaucrats do not know. It is a possibility. I do not particularly know whether it is true or not, but there is pretty good indication that nuclear power may be the safest and the cleanest of all fuel.

We have spent a good many dollars over the last several decades trying to protect our environment. I think we should have absolute protection of our environment. But what are we doing? We are now insisting that we burn coal; that we mine more coal. Nobody has proven that coal is safer than other sources of energy and evidence is available to show that coal is a very dangerous fuel.

So in the long run we may be producing much more environmental hazard than if we would have allowed the marketplace to handle the problem. But we do this always with good intentions never realizing some of the complications we might get into.

With the development of synthetic power it is estimated that we will have to use massive amounts of water. And yet many expert environmentalists are not sure whether we have the water available or not to do this.

The synthetic fuels bill should be rejected for many reasons.

SYNTHETIC FUELS

This bill calls for \$25 billion, the first of an \$88 billion program for the development of synthetic fuels. With our energy crisis, who could object? Does anybody really care that the technology for making gasoline from coal is more than 40 years old? Does anybody consider that the corporate recipients of these confiscated dollars are delighted that the expenses of building new plants are being passed on to the middle-class patsy?

The risks will be borne by the defenseless—the profits will be reaped by the corporate welfare giants.

The promises of more abundant and cheaper energy for the taxpayer will never materialize, and when this is discovered the taxpayer is going to be very angry.

If the Congress and the bureaucrats can create consumer shortages when there are no actual shortages, how can we expect the same people

to provide an abundance of new energy from scratch? Seeking to turn these destroyers into producers is absurd.

The 4-year debate in Congress over development of synthetic fuels has been misdirected. The environmentalists' reservation about synthetic fuels are well founded. However, since Government is the greatest polluter of all, it is not surprising to see the American taxpayer forced to pay \$25 billion to finance his own environmental hazards. How can anyone object if the program is pushed in an atmosphere of panic? Although the environmental issue was raised in 1976, it now has been brushed aside by the fear of more DOE-created shortages. The Energy Mobilization Board will also nullify any environmental protection gained through Federal or State legislation. Forced use of coal over gas and nuclear will also increase the danger to our environment.

Fancy oratory has been heard over how much should be spent on this program. Figures ranging from \$3 to \$88 billion have been mentioned.

But everyone seems to be satisfied with the \$25 billion planned in this legislation. The only comforting feature about this amount is that it will cause less damage than one would assume. With a 20 percent inflation rate—in real terms—over a 4-year period, in terms of today's dollars this will amount to less than half of the appropriated amount in spending power. The danger exists, however, that the foolish notions of Government intervention will prevail, and massive new subsidies will be acquired, to make up for the loss.

The real debate regarding synthetic fuels has never occurred: Can we know if, when, and which synthetic fuel should be produced, and is it a proper function of the State to do so? Are we, the Congress, even with the help of our bureaucrats and scientists, capable of knowing and interpreting the market? Can one person, or one body like the Congress, even with massive computer technology and numerous economic models, know that which requires millions of voluntary choices in every other area of the economy?

When one realizes that a market economy is controlled by consumers making purchases and withholding purchases—something even the smartest businessman can only "gamble" on—it becomes apparent how foolish we are to pretend we know just when and what to do with regard to developing new fuels. Thinking otherwise demonstrates an unbelievable intellectual arrogance or a remarkable naivete.

The May 1980 issue of Research Reports, published by the American Institute for Economic Research, stated it quite clearly:

Governmental interference in the marketplace to "stabilize" production of any good imposes involuntary choices on the public by (1) increasing taxes to support the artificial production of a good and (2) limiting consumers' ability to purchase goods they actually desire. So-called stabilization programs actually benefit a small group at the expense of the public. . . .

Voluntary cooperation is fostered by competition in the marketplace. It does not require governmental "direction"; it requires merely a set of rules that prohibits such acts as fraud and theft. The marketplace adjusts the actions of consumers and producers so that economic activity is geared to satisfy market participants to the greatest extent without infringing upon anyone's rights.

In fact, centrally planned programs not only distort economic activity by causing surpluses in production in some areas (e.g., certain agricultural products) or shortages in other areas (e.g., crude oil), they also wrongly suggest to people that the political process can solve their economic problems. . . .

payers', thus prompting better judgment. Government action, as with the synthetic fuels legislation, is counterproductive, and the benefits claimed from such projects will be so costly that no net gain can be achieved—it will be nothing more than a corporate CETA program, and is doomed to fail economically and become corrupt politically.

A "no" vote on this massive boondoggle is not a "no" vote on synthetic fuels. That is not the issue. The issues are who takes the risk, who pays, who benefits, when and which fuels do we make, do we heed constitutional restraints, and do we consider the immorality of theft and forced wealth redistribution? To argue that without a synthetic fuels program we will have insufficient energy is fallacious. The evidence clearly shows we are more likely to have insufficient energy supplies with Government interference than without.

For those who agree that we need synthetic fuels development, a "no" vote is a must. It is the only consumer and environmental protection vote available to us.

Casting a vote for the market puts all the responsibility and risk on the potential profitmaker. No fast track legislation would be needed to circumvent environmental protection afforded by private property rights.

If wrong decisions are made by the investor about when and which fuel to manufacture, he loses and the taxpayer does not. And the information gained is of great value to the next private planner. When the Government "planner" fails, the taxpayers suffer, the market is drastically distorted and only misinformation is obtained. Government never makes proper corrective actions, it only pursues with a vengeance its previous mistakes—to prove they were not mistakes—by throwing more money—wealth extracted from productive American citizens—down the ratholes of market manipulation.

When losses are hidden or distributed to the public—as it is with Government errors—the significance of miscalculation of the market is not readily apparent. Perhaps oil supplies are more plentiful and more practical than are synthetic fuels, or electric cars, powered by nuclear generated electricity, may be more advantageous: Only the market knows, not you or I.

As a matter of historical fact, we know that Government intervention has prevented the natural development of clean and safe alternative energy sources.

Politically set utility rates impose no higher cost on customers in distant areas, where delivery costs are higher. That is, urban customers including the poor, subsidize suburban and exurban homeowners.

If people in remote areas paid the market cost of delivery, alternative sources such as wind, solar, and others would not have atrophied. They would have been economically competitive many years ago.

Political intervention also undermined alternative energy through the Rural Electrification Administration. In their essay, "Property Rights and Natural Resource Management," published in *Literature of Liberty*, Richard Stroup and John Baden of Montana State University note:

Perhaps the most important factor fostering the decline of our indigenous alternative energy industry was an unintended consequence of a desire to "do

good." The Rural Electrification Administration (REA) was established during the 1930s to subsidize power delivery to people in rural areas. The federal government guaranteed two percent loans and eliminated income taxes to rural power co-ops. Thus, the general citizen picks up a portion of the cost of delivering expensive power and hence reduces the market incentive to develop alternative systems.

Although REA legislation was enacted in the 1930s, the demise of the wind-mills and wind generators was postponed for another two decades, the time required for electric wires to be strung throughout the Central and Western states. Marcellus Jacobs, founder of the once successful "Jacobs Wind Electric Company," stated that without question, the spread of REA subsidized power facilities signaled the end of his business. The solar water heating industry, resurging after World War II, was also stunted by cheap electric rates. Like wind power and solar water heaters, the ultimate demise of eighteenth and nineteenth-century tidal power can also be attributed to the subsidized introduction of cheap electricity.

Having once halted the natural development of these alternative energy sources, we now want to subsidize them, when technologically their day may have passed. Even worse, we are on the verge of subsidizing dirty synthetic fuels.

The question is whether or not private citizens, entrepreneurs, and consumers should make the decisions on how, when and where synthetic fuels and alternative energy sources should be developed, or whether the decisions should be made by Government officials at the taxpayers' risk. The question has moral as well as economic and constitutional dimensions. The economic fallacy of Government control, if not obvious today to the majority, will be obvious to economic historians of a later generation. Unfortunately, it will then be too late to help warm, light, cool, or transport Americans as they would like.

The tragedy about discussing the constitutional argument against such a program is that the mere suggestion of such a point is ridiculed. Here in Congress the Constitution is whatever one wants it to be, and, unfortunately, there is minimal understanding of its true meaning. It bewilders many if the issue of constitutional restraint is raised on a specific piece of legislation, since we have drifted so far from the original intent of its limitation of power in our everyday legislative activities.

It is an argument foreign to most and, sadly, of no consequence. The Constitution is simply not used as a guide in our legislative process. It is only used in a circuitous manner to support efforts to concentrate power or justify some, occasionally correct, minor point. There is little hope for building limited-government, private-property, free-market principles, if this attitude toward the Constitution does not change in the next election or two.

The moral argument could be the most convincing, since the Congress is made up mostly of fairminded persons truly concerned about the welfare of their constituents and the nation.

When it is realized that this is corporate welfare at the expense of the poor and that new energy will not likely result, rejection of this approach will be easy, since it is morally wrong as well.

Is it fair for the poor to assume the risks and the rich to reap the rewards?

Is it fair to encourage coal burning at taxpayers' expense and hinder the developers of possibly cleaner and safer alternatives such as nuclear and solar?

massive Government bureaucracies, the Energy Security Corporation and the Solar and Conservation Development Bank, to deal with our energy problem when we have already seen how miserably the Department of Energy and other entities we have established have failed.

We once again go down the further road of more governmental solutions when in fact the Government created the problem that this country faces in energy in the first place. Even if successful, what this approach will mean is that we are going to, in effect, be able to produce synthetically about 5 percent of what we are now importing. So it is certainly no total solution. Yet it is the only game in town.

Even though I disagree with the methodology that has been established in this bill and think that we could do a lot better for less cost with a system of tax incentives that reward the successful, rather than a system of grants and loan guarantees that benefit not only the successful but the unsuccessful, because of our dire need, as some have put it on my side of the aisle, "to do something." I will reluctantly support this bill because I think that to do something is better than to do nothing.

I would like to make one final comment and that is that several weeks ago this House wisely rejected a tax increase of 10 cents a gallon on gasoline. Make no doubt about it, however obscure, however hidden it may be in this bill, there is a tax increase on gasoline that is called for in this report. So we ought to realize that we are voting for a tax increase if we support this bill. A complicated entitlement system is set up under which the U.S. Government is allowed to buy at a preferred cost fuels to fill our strategic petroleum reserves, something that I agree should be done as soon as possible. But in order to do that, under the way this bill is structured, those that could otherwise purchase cheap petroleum are now forced to go out and buy it somewhere else, giving that cheap petroleum to the Government.

The ultimate effect is an increase in the cost of each gallon of gasoline that we buy in this country of about four-tenths of 1 cent. Yes, it is not a large amount compared to the 10 cents that we were unwilling to see imposed on the American consumer just several weeks ago, about 5 percent of that amount, but, nevertheless, the principle is still the same. We are, indeed, imposing a new tax on the American consumer through this bill.

I agree that the strategic petroleum reserve ought to be filled, but it ought not to be filled by paying for it with a tax increase.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. Mr. Speaker, first let me state that we are all saddened by the fact that the gentleman from Pennsylvania (Mr. Moorhead) will be leaving at the end of this session. He perhaps has done as much, if not more—than any other Member in the area of synthetic fuels, which is absolutely essential if we are going to ever have any independence from the OPEC countries.

Mr. Speaker, as a cosponsor of the original House synthetic fuels legislation which has evolved into this conference report, and as one of the Members who has been fighting for a synthetic fuels program

ever since we lost the one we had back in 1953, I urge an overwhelming vote today.

To my way of thinking, we are sending two signals through this legislation. The first one is to both the oil exporting nations and the other consuming nations. We are saying to them, to OPEC, to the industrial nations, and to the developing nations, that finally we are taking the first real step toward energy independence.

We are saying that we have so much coal, and so much shale, that we have been foolish and wasteful not to have been using, but that time is over, and we are moving into the new time—the time of energy independence.

This is the first signal.

The second signal is to our own people. We are saying to them that there is at least one way out of the nightmare of constantly escalating imported oil prices. We are saying that we do not have to be at the mercy of merciless people—the oil exporters who have drained and damaged our economy to the point of peril, which is where it is today.

But if we are going to be really energy independent—if we are going to really be out of the clutches of the oil exporters—we have to go much further than this legislation. We have to go into commercial scale synthetic fuel production in the same kind of way we would be operating if another country had declared war on us. I think war is a useful comparison, because we are in an economic war, and we are losing it.

Anyone who has looked at the figures knows that the fiscal rope is very frayed not just in our country, but worldwide, and if it breaks not just our economy, but the world economy, will collapse.

So the people who will be involved in implementing this legislation, and in bringing about the beginning of a synthetic fuels industry, have a tremendous charge on them, a tremendous responsibility. If they are dilatory and wasteful, if they pour billions down the rathole of false research instead of into the construction of an industry, we will be in an even more dangerous situation than we are today.

But if they move ahead with the great amount of technical skills and knowledge that is already available, and that has been used and is being used in other countries to produce synthetic fuel, they will get the credit for carrying us across the threshold toward energy independence.

Mr. Speaker, not too many years ago, we lost a rule on a synthetic fuel bill on this floor by 1 vote. Today, we are going to rebuild the hope that we lost then. In a not too distant tomorrow, I want to be standing here in support of a vast expansion of the synthetic fuel program—the legislation that will finally move us out of the clutches of the oil extortionists, and into the realm of energy independence.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that I may be permitted to yield 5 minutes to the gentleman from Kentucky (Mr. Perkins).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. MOORHEAD of Pennsylvania. Reserving the right to object, Mr. Speaker, at this time I intend to yield a block of 20 minutes to the

massive Government bureaucracies, the Energy Security Corporation and the Solar and Conservation Development Bank, to deal with our energy problem when we have already seen how miserably the Department of Energy and other entities we have established have failed.

We once again go down the further road of more governmental solutions when in fact the Government created the problem that this country faces in energy in the first place. Even if successful, what this approach will mean is that we are going to, in effect, be able to produce synthetically about 5 percent of what we are now importing. So it is certainly no total solution. Yet it is the only game in town.

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Mr. PERKINS. Mr. Speaker, first let me state that we are all saddened by the fact that the gentleman from Pennsylvania (Mr. Moorhead) will be leaving at the end of this session. He perhaps has done as much, if not more—than any other Member in the area of synthetic fuels, which is absolutely essential if we are going to ever have any independence from the OPEC countries.

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gentleman from Washington (Mr. Foley) for the purpose of yielding, debating, reserving his time, and yielding back his time.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington (Mr. Foley) ?

There was no objection.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding to me. I have the same concern. We are all in agreement with the need for developing synthetic fuels in this country as fast and as rapidly as we can. But the thing that concerns me is that presently under existing law in the Defense Production Act the Department of Energy is processing applications for loan guarantees. I am told there are about 900 applications presently under process. When this bill becomes law, what will the administration do with 900 applications? Are we going to go back to square 1, do they have to reapply, will we have a long term of several months before this corporation gets established and the board gets appointed? It could drag on for a year or more in this intervening period. In that time we could maybe even have a new President, and this act would slow down the process. In that time no application would be acted upon, nor any progress toward producing badly needed fuel.

Mr. PERKINS. I would say it would slow down, but the impediments we have in the act, I think, the gentleman from Pennsylvania (Mr. Moorhead) will agree, could drag along for some period of time.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. I thank the gentleman for yielding.

I would like to say to the gentleman that the 900-odd applications to the Department of Energy on the loan guarantees are not for production. They are either feasibility contracts or cooperative agreements. Having worked on a feasibility study, that Corporation is in a better position to know how to bid for either a price guarantee, a loan guarantee, or a loan. But they would proceed either under the Defense Production Act or under the Corporation. However, they will have made a step forward through their feasibility study.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman from Kentucky yield for a brief question?

Mr. PERKINS. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Is the gentleman saying there are no applications today for loan guarantees in the Department of Energy, those applications are all just for feasibility studies and really we have not even started to crank up to help industry to start producing synthetic fuels and other alternative sources of energy?

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, if the gentleman will yield, it is my understanding the only contracts are cooperative agreements and feasibility studies.

Mr. MYERS of Indiana. Then, Mr. Speaker, we are worse off than I thought we were. I thank the gentleman for yielding.

Mr. PERKINS. Mr. Speaker, let me say I would like to see the loan guarantees and every incentive we could possibly provide to get this program off the ground. I think we are going to have to make some modifications and come back with a much larger program. I do not think it will be very long before we see that day come about.

Mr. Speaker, I personally feel we must come forth with a much bolder bill, more incentives, loan guarantees and on a national emergency basis just like we would be working if we were in actual war, if we are ever going to free ourselves from these OPEC nations.

Mr. Perkins asked and was given permission to revise and extend remarks.)

Mr. McKINNEY. Mr. Speaker, I yield 3 minutes to the ranking member of the Committee on Science and Technology (Mr. Wydler).

Mr. Wydler asked and was given permission to revise and extend remarks.)

Mr. WYDLER. I have very mixed emotions about the conference report. If we had title I alone, I could support it wholeheartedly. I would think it would be a worthwhile venture for the Government to embark upon and at least go through the first stage and see if it really was profitable for country. Then if it was, to continue on with the program and get the benefits from it.

THE CORPORATION AND DFA

Mr. Speaker, this bill is at least as important for its symbolism as substance. The world has been waiting for us to do something about energy supply since 1973. The Federal commitment in title I of this bill which sets up the Synthetic Fuels Corporation is the meaningful assurance that our allies have been waiting for. The dollars are only the tip of the iceberg," since we know this country's public and private investment will have to be at least 10 times as much to make a major contribution to domestic energy production. Title I must certainly be a chance to make a difference in energy supply; a potential which was not existed in the 1978 National Energy Act.

THE LONG CONGRESSIONAL JOURNEY

From my vantage point on the Science and Technology Committee, we have come a long way down the road with synthetic fuels. It has been a tortuous path and we have traveled it very slowly since the first congressional initiative in 1975. The rule on the first synfuels bill was passed in this Chamber that year by a curious alliance of those who thought the marketplace would be perturbed by Federal moneys with interests who could not countenance the fact that the large energy companies might profit from a Federal synfuels program. Both our committee and the Congress have learned a lot about demonstrating commercializing technologies since then. Our committee was successful in having generic loan guarantee provisions adopted in Public Law 95-238, the fiscal year 1978 DOE authorization bill. These authorities have not been exercised in a substantive way by the DOE as of yet. Meanwhile, we have watched the frustratingly slow progress of the conversion demonstration plants—some of which were authorized over 5

years ago by the Congress. Slow progress has been due in a large measure to lack of industry confidence in the technologies and absence of strong project management in DOE.

This painful history sets the stage for what happened on the floor of the House 1 year ago. The frustration with development of a synthetic fuels industry had peaked by then and most Members decided that they actually wanted to see something built. They wanted to see someone get all the permits and licenses and go out and construct some plants. Sure, the operating shakedowns may take months and some experience will be painful, but the House decided, "Let us build them and get some gaseous and liquid product." Let us face it. We have all got to take some risks. We have got to bet on the fact that this corporation, the industry and the DOE can work together to reach the goals we set; and the corporation must be much more than simply a Federal bank to do it.

I hope that this legislation is a signal that the Congress intends to move broadly across the energy supply front. The companion EMB bill should at least expedite the judicial review process for vital energy projects.

I think it will take a change in national attitude to turn the country around in energy supply. We cannot continue to embrace regulation for regulation's sake nor simply advocate that all energy facilities be built in someone else's backyard.

The Congress does not have the political will to fast track nuclear projects, although nuclear plant deployment is much more environmentally attractive than coal conversion. I strongly urge the President to exercise his authorities judiciously and appoint the very best people to the Corporation's Board. The Synfuels Corporation must have good taste and good judgment. I feel that the House conferees have improved the SFC concept immeasurably.

WARTS AND ALL

We must embrace the supply legislation which we have before us. warts and all. So, I am voting for this bill fully aware of all of its faults and imperfections. I strongly urged that the conferees move title I of the bill separately and still believe that made good sense. I cannot blame the other body completely for its weaker, extraneous provisions, but I can assure my colleagues that the Senate did more than their share. Their insistence on retaining superfluous titles in the bill turned the conference into a more protracted negotiation.

THE SENATE'S INSECURITY CORPORATION

I do not share the Senate's preoccupation with the Energy Security Corporation as the sole instrument for synthetic fuels commercialization. I believe that appropriated money available to the President under the Federal Non-Nuclear Act or Defense Production Act authorities should be used for the purposes of the act in a timely fashion. In fact, I am concerned that if the SFC behaves as much like a financial institution as certain conferees intended, it most certainly will not be able to do its job. For example, I do not believe that interposing the Corporation between the Department of Defense and producers of

narrow specification jet fuel is at all appropriate. Yet, contracts under the Defense Production Act authorities must be drawn as broadly as possible to insure that the DOD can specify their own requirements.

GASOHOL—RIPOFF OR REAL PROMISE?

My major misgivings about the bill center on title II, part A, biomass energy development. The authorization levels provided for alcohol fuels projects range from \$1 billion up to \$1.2 billion for just 2 years. I must point out to my colleagues that this funding is completely out of proportion to the real promise of gasohol in our energy supply picture. In fact, the most promising biomass conversion processes are not ready to be demonstrated in full-scale projects. The emission effects of alcohol additives are not yet well understood. A recent TVA study of hundreds of vehicles actually showed a 3-percent reduction of miles per gallon with extended gasohol use. Further, methanol will ultimately be used instead of ethanol and there has been little groundwork done on the unique problems it presents.

I trust my colleagues on the Appropriations Committee will keep the funding for this overly zealous program down to responsible levels. I hope they will not forget the tax incentives which already exist for gasohol production and use. If they do not fund these programs only in proportion to their real promise, critical energy supply programs may be crippled or terminated because there is not an unlimited amount of appropriations for the energy budget function. If these projects are intended for primarily agricultural applications and that constituency provides their main support, then it would appear logical to fund them under agricultural budget authorities.

WASTE-TO-ENERGY

The municipal waste-to-energy provisions of this bill are far from ideal, but they will provide the encouragement to improve reliability of existing plants and demonstrate advanced technologies. Modest appropriations could be used very effectively if DOE responds to the congressional intent to see that these programs are managed in a comprehensive fashion. I would, however, have preferred to retain more of the House provisions for part B of title II.

TARGET-SETTING

Title III provides for the setting of energy targets by the Congress. I do think this approach is well-intended and deserves a trial, but I am afraid it will prove inconclusive and wasteful. The net sum of the authorization and appropriations processes is still the most meaningful indication of congressional target-setting.

OVERLAPPING INCENTIVES

I have reservations about title V on solar energy and energy conservation, although I appreciate that some of my House colleagues worked long and hard on it. The provisions are so complex that I offer them for reading by my colleagues as dramatic proof of the attractive

simplicity of tax credit incentives. This title is authorized at \$250 million over the level which the President requested in March. It is a tribute to congressional schizophrenia that the conferees should insist on overfunding a burdensome administrative program in a tight budget climate. The unfortunate assumption has been made that a complex formula of subsidies is required to commercialize solar and conservation schemes in spite of the windfall profits incentives and massive technology development funding. Geothermal and renewable provisions in the bill have the same generic flaw of overlap and redundancy.

COAL'S FUTURE

There are two studies called for in title VII which are modestly funded but are critically important to the directions of our energy supply future. Since the days of discussion on the fuel use element of the National Energy Act (NEA), many of us have warned the country on the dangers of relying exclusively on coal for future electrical needs. A comprehensive research program in acid rain sources and effects will provide important data to decisionmakers on the intermediate-term future of the coal option. My home State of New York has already seen the impact of acid rain and so has Scandinavia. In the long term, 50 years from now, the levels of carbon dioxide in the atmosphere may mean the end of coal burning for electricity on a global scale. This bill calls for a status report on the CO₂ problem so we can decide what should be the emphasis of a comprehensive worldwide assessment.

SPRO AND THE SAUDIS

Title VIII, the strategic petroleum reserve provisions, is intended to bolster national security. It is, however, interesting to me that the conferees decided on language that is as curious for what it does not say as what it does say. I visited Saudi Arabia in January and had public and private meetings with Sheikh Yamani and members of the royal family. My conclusion was that we have a very special relationship with the Saudis. Also, it is well known that they are extremely sensitive to the prospects of our storing their oil directly in the reserve. I think we should move ahead on SPRO, but I am puzzled that the conferees could not bring themselves to acknowledge the unique United States/Saudi relationship explicitly in statute. My suggestion was that foreign oil purchases be confined to those from Western Hemisphere countries to allow the flexibility of purchasing from Venezuela and Mexico. In this manner, we could minimize the possibility of retaliatory actions by the Saudis, such as reducing output, while inviting interested countries to sell us oil, particularly in the event of some surplus in the world market supply.

CONCLUDING REMARKS

Mr. Speaker, we have provided some tools for energy supply in title I. The tools are not quite custom made but they must serve us well for at least the next decade. I, for one, hope that this first \$20 billion infusion will be sufficient to catalyze an industry to production. The

provided by a transfer from the \$20 billion energy security reserve established in the Treasury for fiscal year 1980. The act will have no impact on the fiscal year 1981 or 1982 budget in terms of budget authority. The budget impact in terms of outlays will be minor since the types of financial assistance provided for do not involve any actual Federal liability unless a project runs into difficulty and defaults or if its eventual fuel production is sold at a price lower than the price provided for in a price guarantee or purchase commitment. It is anticipated that the only budgetary impact of the financial assistance portion of the act for the next 2 fiscal years will be for administrative expenses.

Of the \$1.45 billion for activities of the Department, \$1.2 billion is for activities under part A relating to projects using agricultural, forestry, and similar feedstocks and \$250 million is provided for activities under part B for municipal waste activities under a newly created Office of Energy from Municipal Waste in the Department of Energy. The \$1.2 billion for biomass energy activities under part A is divided evenly between USDA and DOE. Of the \$600 million provided the Secretary of Energy, not less than \$500 million must be for the Office of Alcohol Fuels with the remainder administered as the Secretary of Energy deems appropriate to carry out the purposes of this act.

USDA is provided exclusive jurisdiction over projects producing 15 million gallons or less of alcohol—or Btu equivalent of other fuels. DOE is provided jurisdiction over projects producing more than 15 million gallons.

Both USDA and DOE share jurisdiction over projects producing more than 15 million gallons which involve forestry feedstocks or which are operated by farmer cooperatives.

To insure that the activities of USDA and DOE are coordinated, the agencies are required to consult with each other during the application processing stage to avoid conflicts between proposed projects and national agricultural and energy policy issues. This consultation is not necessary for projects which would normally be approved at the local level or which replicate proven technologies. USDA and DOE are required to work out categories of such projects which will be exempted from the consultation requirement.

In addition to providing financial assistance for biomass energy projects, the act recognizes the critical need for additional research and extension activities in the areas of biomass energy production and use and rural energy conservation. Subtitle C of the Biomass Energy, and Alcohol Fuels Act provides for increased research, demonstration and extension activities by amending certain agricultural statutes to clarify the authorities of USDA in this area and by authorizing additional funds for such activities.

USDA is provided an authorization of \$12 million for each of fiscal years 1981–84 for research on the production and marketing of alcohol and other forms of biomass energy as substitutes for petroleum or natural gas. Grants under this provision can be made to colleges and universities as well as Government corporations such as TVA. A substantial portion of the research under this provision will be to identify

and develop the alcohol production capabilities of diverse agricultural commodities and wood wastes and residues. An additional portion will be for developing technologies for increasing the energy efficiency and commercial and economic feasibility of alcohol production technologies including cellulose conversion and cell membrane technologies.

Subtitle C of the act requires the Secretary of Agriculture to establish up to 10 model demonstration biomass energy facilities to demonstrate the most advanced technologies available for producing biomass energy and authorizes \$5 million for each of fiscal years 1981-84 for this effort. In addition the act authorizes appropriations of \$10 million for each of fiscal years 1981-84 for energy extension activities of the Cooperative Extension Service. These demonstration and extension activities will be helpful in informing farmers and rural residents of the do's and don'ts of biomass energy production and use and of appropriate steps that can be taken to increase energy conservation.

Finally, subtitle D contains several miscellaneous biomass provisions which will encourage the increased use of gasohol in Federal motor vehicles, facilitate the conversion of existing idle distilling capacity to the production of alcohol for fuel uses and provide standby authority for the allocation of alcohol fuel.

In sum, title II, the Biomass Energy and Alcohol Fuels Act of 1980 is a comprehensive measure which will increase production and use of biomass energy in a way which maximizes the benefits to be derived from such production. Specific provisions will prevent biomass energy production from being inefficient or uneconomical and will help direct such production along lines which are compatible with other non-energy uses for agricultural crops and forest products. Biomass energy development is only one aspect of this important legislation but together with the other synthetic fuels provisions and solar and conservation efforts it will play a significant role in assuring the future prosperity of our Nation.

I believe, Mr. Speaker, that this area is one that all of us who are associated with the Agriculture Committee and with the agricultural concerns of this Congress take pride in. We believe it is a well-crafted title, and one that will be a positive contribution to the energy resources of our Nation in the future.

Mr. Speaker, I ask unanimous consent to yield 3 minutes to the gentleman from Indiana (Mr. Fithian).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

(Mr. Fithian asked and was given permission to revise and extend his remarks.)

Mr. FITHIAN. Mr. Speaker, I am going to rise in strong support of the chairman and the ranking minority member and the work of those members on the Agricultural Committee. I want to strongly support this as a major step in the direction of producing fuel.

We have been talking about other matters in the House, and I have some very strong reservations and concerns about the inadequate effort by both the Department of Energy and the Department of Agriculture. I hope, Mr. Speaker, that the chairman of the Agriculture Committee and others will continue to help us put pressure on. We can

develop some real alternate fuel. I think that long before we get other fuel from this bill, we will be getting it from alcohol fuel.

Mr. Speaker, it gives me great pride as a cosponsor of the House version of S. 932 to stand before the House today witnessing Congress taking the first faltering steps toward energy independence for our Nation. This is a proud day for America and I think that historians in years to come will point to this day as the day Congress and the Nation got serious about solving our energy problems.

Some day in the very near future, dirt will be turned on the site of the first synthetic fuel plant authorized under this act. In all likelihood, it will produce ethanol for gasohol, our first synthetic fuel. And, in all likelihood, construction on the plant will begin within a matter of months—years before the oil shale and coal liquefaction plants authorized in other sections of this act get off the drawing boards.

That this plant—and dozens more which will follow it—will be built and that these plants will give us a head start on our synthetic fuels program, is no accident. Dedicated advocates of alcohol fuels fought hard for every penny of the \$1.2 billion this bill authorizes for alcohol fuel commercialization. The farmers who produce feedstocks for ethanol and the motorists who will benefit from it owe a debt of thanks, first, to the congressional alcohol fuel caucus, a bipartisan group which lobbied anyone who would listen during the long and difficult conference on the bill for a sound alcohol fuels policy.

I was proud to have played a role in this effort along with Congressmen Bedell, of Iowa; Daschle, of South Dakota; Sebelius and Glickman, of Kansas. The thousands of alcohol fuel advocates in rural areas around the country who supported our efforts with their letters, telegrams, phone calls, and personal lobbying with their own elected Representatives were instrumental in getting congressional action. Finally, Chairman Foley, who worked long and hard to develop a responsible House position on title II of the bill, Majority Leader Wright, who devoted a great deal of time and effort on behalf of alcohol fuels, and Chairmen Moorhead, Staggers, and Fuqua, who withstood the temptation to drop biomass sections of the bill during the long and difficult conference, all deserve the thanks of our people.

In 1929 the great American inventor Henry Ford wrote:

We can get fuel from fruit, from the Sumac by the roadside, or from apples, weeds, sawdust; almost anything. There is fuel in every bit of vegetable matter that can be fermented. There is enough alcohol in one year's yield of an acre of potatoes to cultivate that field for a hundred years. And it remains for someone to find how this fuel can be produced commercially.

Today, half a century after, we are finally taking the action needed to realize that great American's dream.

Mr. Speaker, I thank the gentleman for yielding.

Mr. McKINNEY. Mr. Speaker, at this time I would yield 20 minutes to the gentleman from Virginia (Mr. Wampler), the ranking minority member of the Committee on Agriculture, to use as he so chooses.

Mr. WAMPLER. Mr. Speaker, I yield myself 10 minutes.

(Mr. Wampler asked and was given permission to revise and extend his remarks.)

Mr. WAMPLER. Mr. Speaker, I join my colleagues in support of the conference report to S. 932, the Energy Security Act of 1980. This

important legislation should lay the groundwork for development of a strong domestic energy production program which will help our country achieve energy independence.

Mr. Speaker, the United States had an abundance of raw domestic energy resources in our coal, forests, and grains, and the most advanced technology of any country in the world. Despite these assets, we have been hesitant to make the commitments necessary to develop alternative fuels, and we are now faced with a situation where an unstable and unreliable foreign cartel controls over half of our Nation's critical oil supplies.

The conference report to S. 932 is a long overdue effort by Congress to correct that situation. Approval of this legislation will create a favorable environment for the development of a domestic synthetic fuels industry which will move the country toward energy self-sufficiency.

While S. 932 has a wide array of energy proposals, the centerpiece is a \$20 billion loan program to provide financial incentives for development of synthetic oil and gas from materials such as coal and oil shale. A new Energy Security Corporation will be established to provide these incentives, which include loans, loan guarantees, purchase agreements, and joint ventures. A production level of 500,000 barrels a day by 1987 and 2 million barrels a day by 1982 is the goal of this important program.

I also am pleased that S. 932 gives the President authority to act immediately upon enactment of the bill, to start construction and operation of several synthetic fuel plants for national defense purposes. Since it may take several months for the new Synthetic Fuels Corporation to be formed and begin its duties, this provision will provide an immediate start to our synfuels industry. Once the corporation becomes fully operational, the President's initial authority will be phased out except to renew or extend existing contracts.

Although S. 932 is seeking to establish an industry relatively new to this country, I would like to point out that there is nothing new about producing synthetic fuel from coal and other sources. The United States simply has lagged behind while other countries have taken the initiative. South Africa produces around 40,000 barrels a day of coal-derived liquid fuel, and both China and Russia have synthetic fuel plants in operation. The technology is available, and we must begin to use it now.

In addition to possessing the necessary technology, America also has an abundance of domestic feedstocks available for synfuel production. Our country, which has been called "the Persian Gulf of Coal," holds close to 30 percent of the Earth's total coal reserves. Estimates indicate there are ample supplies, at expected production levels, for the next 200 years. It is important that we begin to utilize this valuable energy resource, for I believe that coal is the key component of our energy future.

There are several other provisions of S. 932 which I would like to briefly mention. One important section deals with developing energy from biomass sources, including gasohol. The approved 2-year program will be jointly administered by the Departments of Energy and

Agriculture, with each Agency receiving \$600 million in loan authority to fund projects which utilize agricultural feedstocks such as grain and wood. DOE also will have an additional \$250 million for projects which produce fuel from municipal waste. The goal of the overall biomass program is to reach a level of production equal to 10 percent of estimated gasoline consumption in 1990.

The proper development of alcohol fuels is important in that they are the only petroleum substitutes currently available in substantial quantities. While alcohol fuels will not be a total solution to our energy problem, they can and should make a contribution to decreasing oil imports. I think alcohol fuel may be particularly effective for on-farm production and use.

I also am pleased that there are sections of the biomass program which emphasize research and development of energy from wood and forestry sources. Our forest lands are a valuable and renewable source of energy, and with proper management they can make a great contribution to our energy needs.

Energy conservation and solar energy development also are important provisions of S. 932. The bill creates an energy bank within HUD to extend loans for conservation and solar energy projects. Estimates indicate that we could consume 30 to 40 percent less energy, with virtually no penalty in the way we live, with proper energy conserving practices. Solar energy also has many useful applications and can save us large amounts of fossil fuel. Solar applications may be particularly effective for agricultural uses, such as crop drying and heating water for livestock houses.

Other provisions of S. 932 include sections which deal with such areas as geothermal and small-scale hydroelectric energy. While these methods will never provide a major portion of our energy needs, they can make a contribution in certain geographic areas. Thus, it is important that their development be encouraged, because we must utilize every available resource we have.

I understand that some of my colleagues on this side of the aisle did not sign the conference report for a variety of reasons. Some objected. I am sure, that we passed a bill that amended the Defense Production Act and encompassed about 15 pages. We now have a bill over 400 pages long and a conference report that is over 300 pages. Spending and loans in this conference report measure go far beyond what the House may have contemplated.

Other Members no doubt have different and valid reasons for opposing this measure. However, the establishment of such a broad energy program and the large-scale production of synthetic fuels is action which is unprecedented in our country. I have some reservations, as do many of my colleagues, as to whether establishing an Energy Security Corporation is the best approach in dealing with the energy crisis. But, hopefully, the flaws of the program can be corrected, and we can begin to move this country toward energy self-sufficiency.

S. 932 offers us a start toward utilizing our vast coal deposits in this country, as well as our renewable resources that can be used for gasoline. It endorses a start on programs that the private sector hopefully will take the lead in, once Congress has acted.

I recognize that once this bill is enacted and its implementation is initiated that problems which some of my colleagues foresee may arise. If that is the case, legislation may be needed to amend this Energy Security Act. If those circumstances come to pass—I reserve the right to refine my position on certain provisions of this act in the light of those future circumstances.

I will vote for the conference report.

Mr. FOLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. Bedell).

The SPEAKER pro tempore. Without objection, the gentleman from Iowa (Mr. Bedell) is recognized.

There was no objection.

Mr. BEDELL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the conference report to accompany S. 932, the Defense Production Act amendments. I am particularly pleased with title II of this legislation which provides substantial financial incentives for the production of biomass fuels.

This legislation represents a tremendous victory for those of us who feel that the increased production of alcohol fuels must be a component of our Nation's efforts to rid itself of its dependence on oil by developing alternate fuel sources.

As many of the Members know, I have been extremely involved in promoting alcohol fuels. Last September, the Committee on Agriculture approved by a vote of 36 to 1 a bill which I had authored, H.R. 3905, which was the first bill providing significant financial assistance for alcohol fuel projects to clear a congressional committee. This legislation was largely incorporated in title II of the bill before us, and I am delighted that after a long, long uphill battle, we are finally moving forward with a major alcohol fuels program.

I have never contended that the production of alcohol fuel would totally solve our energy problems. There are many solutions to our energy dilemma, and alcohol is but one of them. However, I think that it is important to keep in mind that alcohol—unlike any of the other synthetic fuels—can be produced in significant quantities in the near to mid-term. Alcohol production facilities are relatively low in capital cost, and alcohol may be produced in a very decentralized manner. Most importantly, alcohol is produced from renewable resources, and its production and use does not present us with certain environmental trade-offs.

Many have said, however, that the production of alcohol from grain and other food stocks will lead to an eventual food versus fuel trade-off. Such is simply not the case, if we embark on this program in a responsible manner.

An alcohol fuel production program should emphasize the utilization of surplus, waste, or residual feedstocks. Facilities should be built today with the idea that eventually they will be converting our abundant cellulosic materials, rather than our grains, into alcohol.

Moreover, it is essential to recognize that even in the short to mid-term we can, in a sense, have our cake and eat it too. Various tests have demonstrated that a significant portion of our corn crop could be diverted from its use as a livestock feed and instead run through the

alcohol production process, with the high protein byproduct being returned to the livestock ration without a loss in feeding efficiency or meat production. In fact, tests have indicated that with the addition of the high protein byproduct to the livestock ration, crop residues may be used to displace some of the grain normally fed to livestock, with the roughage, byproduct and grain ration producing quality meat at a much cheaper cost.

Additionally, there is one thing that I hope can be done as we move to implement this new alcohol fuels program. I would hope that the Department of Energy and the Department of Agriculture will recognize the importance of alcohol fuels as a realistic and promising new energy source when they take action to exercise the new authority being extended under this legislation. We have heard some reports that because alcohol production technology is considered to be new and undeveloped in some respects, that these departments may require applicants for financial assistance under this program to commit personal financial resources over and above what is required under most other lending programs. I strongly believe that it is imperative that these agencies realize that our energy dilemma is a grave and serious one, and that special recognition should be given to this when we look for promising and innovative solutions.

Mr. Speaker, I would like to yield to the chairman of the Committee on Agriculture for a discussion of this issue. It was at least my understanding that as the Committee on Agriculture passed H.R. 3905, it certainly was not our intent that any of the loan programs be more restrictive for alcohol fuels than they would be for other loan programs. Was that the understanding of the chairman of the committee?

Mr. FOLEY. Mr. Speaker, when we passed the legislation, yes, the gentleman is correct.

Mr. BEDELL. So it is the intent or at least the desire of the Committee on Agriculture that that should be the case? I believe that is the case, as I determined from our committee, although it is not written into law.

Mr. FOLEY. The gentleman is correct.

Mr. BEDELL. Mr. Speaker, I thank the committee chairman.

Mr. FOLEY. Mr. Speaker, I yield 3 minutes to the gentleman from South Dakota (Mr. Daschle).

The SPEAKER pro tempore. Without objection, the gentleman from South Dakota (Mr. Daschle) is recognized.

There was no objection.

(Mr. Daschle asked and was given permission to revise and extend his remarks.)

Mr. DASCHLE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to share in the commendations of my other colleagues of the work done by the gentleman from Washington (Mr. Foley) in this whole area, and certainly I commend also the gentleman from Pennsylvania (Mr. Moorhead).

Without question, this is the single most significant piece of legislation pending before the Congress with regard to alcohol fuels and the development of alternative forms of energy. I think it is to the credit of these gentlemen that we have been able to take a very difficult

issue and, in dealing with it, come out with such a remarkable piece of legislation to assist our people throughout the country in developing new forms of energy sources.

Mr. FOLEY. Mr. Speaker, I reserve the balance of my time.

Mr. WAMPLER. Mr. Speaker, I ask unanimous consent to yield 5 minutes to the distinguished gentleman from Vermont (Mr. Jeffords),

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

(Mr. Jeffords asked and was given permission to revise and extend his remarks.)

Mr. JEFFORDS. Mr. Speaker, I rise in opposition to this conference report. In many ways, I regret having to oppose S. 932 because it contains much that is good. The titles concerning acid rain research, wood energy programs, strategic petroleum storage, and the solar and conservation bank all provide important and necessary new authority. Certainly the committees that worked on this legislation are to be commended for that good.

However, I must oppose the report because I disagree with the basic philosophy behind the Energy Security Corporation. The Corporation is clearly the main thrust of the bill, and I can only conclude that the negatives outweigh the positives as far as our country's energy policy is concerned. I do not believe that a body like the ESC should determine where our country will go in the very substantial area of synthetic fuels. We should not grant such heavy decisionmaking responsibility to a Federal bureaucracy which could well distort the development of a synthetic fuels industry, and which cannot do the job of the free enterprise system.

This conference report also represents a trend in our legislative process which causes me great concern. I was upset earlier this year when we were faced with a windfall profit tax conference report, the tax expenditure portion of which was never considered by the House. At that time, I offered a motion to recommit the report along with Mr. D'Amours because we believed that the House conferees had ignored some very important energy incentives. In fact, the Ways and Means Committee has refused to report out any energy tax credit legislation in this Congress. Recently, the impact of the low income energy assistance provisions of the windfall profit tax conference report have become apparent; this is another major authorizing section which the House never considered. If Congress follows the Budget Committee's recommended funding levels for low-income energy assistance, it will result in a reduced payment level to northern areas. It is incredible to me that provisions resulting in such a major funding loss to the northern region could be enacted without full consideration by the House.

The conference report we are now considering concerns me even more. It contains far-reaching provisions, the bulk of which have never been considered by the House. This report signals a shocking failure by the House to assume its responsibilities for energy legislation. This country has a very serious energy problem and the House has failed to deliver comprehensive or cohesive energy legislation in the 96th Congress. We have been satisfied to pass bits and pieces, which we then

hand over to the Senate and a few House conferees to be fleshed out.

What perplexes me more than anything is that several committees have spent considerable time drafting and reporting energy bills which were never granted a rule. For example, the Agriculture Committee reported out a major alcohol fuels bill, sponsored by Mr. Bell, which for some reason was never brought to the floor.

Although the House leadership has chosen not to recognize it, many Members of this body have good ideas on energy programs. We have been denied an opportunity for a full debate of energy issues; we have been precluded from bringing forward our suggestions. And now we are faced with the very serious question of who will make the critical decisions on where this country goes with synthetic fuels, and we do not have an opportunity to propose any kind of alternatives.

I have proposed an alternative to the Energy Security Corporation. When the amendments to the Defense Production Act were before the House, I proposed to offer my alternative as an amendment to H.R. 3930 in a weakened form due to a rules problem. At that time, everybody said, "It is a great idea, but wait until you have an opportunity to do it right in the right forum." I have never had that opportunity. And now we are going to sail off and spend at least \$20 billion of the taxpayers' money without an opportunity to consider any less costly alternatives.

One alternative was incorporated in a bill which I introduced on June 6 of last year along with a bipartisan coalition of 19 Members. H.R. 4345, the Replacement Motor Fuels Act, now has 135 cosponsors; a companion bill was introduced in the Senate by Senators Ribicoff, Nelson, Randolph, Baucus, and Domenici.

The substance of H.R. 4345 was incorporated in a bill reported by the Education and Labor Committee on July 13, 1979. The Energy and Power Subcommittee held hearings on the bill October 10, 1979.

To briefly outline the bill's features, H.R. 4345 establishes a program for replacing, by 1987, 10 percent or more of the gasoline consumed in the United States with alcohol and other replacement fuels derived from renewable and nonrenewable resources. The conference report before us today requires the Department of Agriculture and the Department of Energy to draft a comprehensive plan for achieving an alcohol fuels production target equal to 10 percent of gasoline consumption in 1990. H.R. 4345 differs from the conference report in that it would make this program mandatory.

Refiners would be required to phase in substitute fuels, beginning in 1981, with quantities increasing to 10 percent by 1987. The bill is designed to allow refiners maximum flexibility in reaching that goal. They could mix the fuels themselves, or contract with others to do it. They could alter their percentages at different times of the year and among the geographic regions they serve. If they failed to meet the goal at the end of the year, they would be fined a dollar for each gallon of fuel sold in violation of the law.

The cost to the consumer of 10 percent replacement would not prove excessive. If you reduce by 10 percent the \$1-per-gallon price of gasoline, and add to the remaining 90 cents a cost as high as 13 cents for replacement fuel, you arrive at a price increase of only 3 percent at the gas pump. This modest increase assumes replacement fuel costs

of as much as \$55 per barrel refined, or 13 cents for each one-tenth gallon of replacement fuel.

There is room for argument about some of the bill's particulars. People may dispute the size of the goal; I know many feel that 10 percent replacement by 1987 represents an overly ambitious standard. But I believe that a firm goal is necessary to get the industry going; I am also convinced that it will spur the industry in the most effective and least obstructive manner.

H.R. 4345 takes a free enterprise approach to alternative fuels development. Competition for the mandated market will determine how a replacement fuels industry develops, and competition will produce the most efficient industry. Needless to say, disincentives to efficiency are expensive when capital costs of \$2 to \$3 billion for a 50,000-barrel-a-day plant are at stake.

The mandate approach also promotes equity with respect to who bears the costs of development. Refiners would pass on the cost of replacement to the user, whereas the taxpayer would have to finance any subsidy program.

This approach also offers the American public the security of knowing that the energy industry will work toward a specific goal. It eliminates the concern that, for all the subsidies and incentives we offer potential producers, we may find in 10 years that we are not much closer to having a full-fledged replacement fuels industry.

H.R. 4345 is compatible with a number of other approaches. In fact, I submit that a mandate would work to improve the equity, credibility, and effectiveness of the other proposals that are pending before this Congress and contained in this conference report. Many have said in the course of the debate over petroleum substitutes that you need both a carrot and a stick to get the industry going. I firmly believe that if we propose handing out taxpayer funds in the magnitude of \$88 billion over the next decade, we have to make some duties incumbent upon the recipients of those funds. We had better make sure that this truly represents a Government investment in a more secure energy future. A mandate accomplishes this by demanding some certainty that the supply will actually materialize within a reasonable time frame.

For these reasons, I cannot in good conscience support this conference report, even though it contains several provisions which reflect some of my highest priorities. Now let me review some positive features.

Title VII on acid-rain research acknowledges what scientists, industry, and I have been saying for some time: Acid rain and other related deposition problems may have some unwelcome, unnecessary, and perhaps irreversible impacts on water, forests, croplands, fish and wildlife, and manmade structures. Scientific evidence is needed now.

To address these problems, their likely sources, and possible solutions, the conference report would authorize a 10-year research effort, with a careful mix of Federal and State agencies, universities, and industry. The Federal task force that would oversee the research would be led by the National Oceanic and Atmospheric Administration, U.S. Department of Agriculture, and Environmental Protection Agency.

I commend the conference committee for an excellent job in revising title VII. Lee Shields and Roger Allbee of my staff have worked closely with the staffs of the conferees to perfect this title. The report combines the best elements of the several bills introduced on this topic, including mine.

The conferees have fairly considered testimony presented at hearings or in information briefings by EPA, Canadian representatives, and others. They have fairly considered suggestions and concerns expressed in a letter signed by me and 23 of my colleagues. They came out with an excellent and positive document that would help America find out what and where the impacts really are; seek workable ways of lessening or eliminating the emissions or other sources; and determine whether effects on land and water can be reduced or corrected.

It would result in some needed policy recommendations for the administration and Congress. And it would help us all make intelligent energy and environmental decisions based on scientific evidence.

Second, I am happy to see the provisions which mandate the Department of Energy to begin filling the strategic petroleum reserve, although a 100,000 barrel per day fill rate is insufficient to move us toward our goal in a reasonable time period. I have worked for a viable strategic storage system since 1975. It is scandalous that the administration has failed to act with any sense of urgency in an area so vital to our national defense and economic stability. I fear that a 100,000-barrel-per-day fill rate does not reflect an adequate degree of concern, but I am glad that the conferees designed their mandate in a way that seems to guarantee compliance by the Department.

I have advocated tying the Elk Hills Naval Petroleum Reserve to the strategic reserve system for several years. The conferees were well-advised to use the Elk Hills resource as a stick to goad the Department into action. If the administration continues to argue that we cannot buy oil for the reserve on the world market because such a purchase would destabilize price or supply conditions, then we should make use of the great resources we have available at the Elk Hills Reserve.

I also am very pleased with the significant provisions in the conference report for wood energy research and development. Wood is New England's fastest expanding energy resource. We badly need advancements in combustion technology, including direct combustion, gasification, pelletization, and so on. We also need to answer some technical and economic questions relating to the harvest of wood for energy uses. In both combustion and harvest, we particularly need some answers for smaller scale uses in the residential, business and industry, and institutional sectors.

Part A of title II would pave the way for addressing questions such as these, through a 2-year biomass energy program involving the close cooperation of the Departments of Agriculture and Energy.

The conference report also provides for biomass-energy research and extension work by USDA in coordination with DOE. Several provisions apply to forestry and wood energy development.

I have worked with officials of USDA and DOE in an effort to assure that wood energy is a strong component of alternative fuels research and technical assistance, and that energy is considered as a full partner in multiple-use management of our forest resources. I

hope that they and my colleagues will recognize these objectives as the intent of the Congress in this conference report.

I also am quite satisfied that at least 25 percent of the research grants I mentioned earlier would include the production of alcohol from several agricultural commodities, including whey. Congressman Baldus and I introduced a resolution last year that would require USDA to assess the whey supply situation, in an effort to improve the declining economic value of this byproduct of the cheese industry in Vermont and other States. Some 900 million pounds of whey solids were produced in 1978, and a total of 2.3 billion pounds were available in that year.

Whey used to be thought of only as a byproduct, as a waste material that quickly became a disposal problem. With the help of hearings that we held on the resolution last year, more people have come to recognize that whey is a valuable commodity in its own right—rich in many of the nutrients found in the original milk from which it was derived, and having considerable potential as well for production of ethyl alcohol for use in gasohol.

The House Agriculture Committee adopted my amendment in the Alcohol Fuels Production Act last fall, including whey as an eligible commodity.

Now, in the conference report on S. 932, the inclusion of whey in an expanded alcohol fuels program is very welcome news for dairy interests in my State.

In concluding, it is with regret that I oppose the conference report on S. 932. It embodies a lot of good work, and will launch a number of important new energy initiatives. However, I believe that the core of the act, establishing an Energy Security Corporation, represents bad energy policy. I do not think Congress should give such an organization the heavy responsibility of deciding the future of a synthetic fuels industry.

Mr. WAMPLER. Mr. Speaker, I ask unanimous consent to yield 3 minutes to the distinguished gentleman from Ohio (Mr. Wylie).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

(Mr. Wylie asked and was given permission to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, I take this 3 minutes to compliment the members who were involved in title II, because I have had some interest in it myself and, as a member of the conference, I feel that this is a long step in the right direction to using grain and biomass to produce fuel.

I have had a longstanding interest in this concept of producing alcohol from grain and biomass. As a matter of fact, I introduced H.R. 760, which has 90 cosponsors, which is a bill to promote the development of an alcohol automobile engine.

We should not use our oil, our precious oil, our costly OPEC oil, to turn in an automobile. The American automobile represents 90 percent of our personal travel, over 5 million jobs, over 9 percent of our GNP, and 7.5 million barrels of oil per day in petroleum use.

Now, it was mentioned a little while ago that the country of Brazil has produced an alcohol fuel engine, which it has. As a matter of fact, it blends all of its gasoline with 20-percent alcohol right now. They passed a law in Brazil which said that their automobile engines had to run on a mixture of gas and alcohol produced from wood fiber or sugarcane.

Actually, Henry Ford was the first to produce an automobile which ran on alcohol fuels. His first automobile, as a matter of fact, ran on alcohol. But oil was cheap, and it was in natural storage, and it was much easier to use. So, we got away from using alcohol as a fuel for the automobile. But we must get back to it.

Actually, we could solve two problems if we do that. We could use our surplus grain, we would not have to worry about selling it to the Russians, and we could reduce our dependence on OPEC.

The Ohio Farm Bureau Federation, as I indicated before, approves this section wholeheartedly. They have several plants that are ready to go with the production of alcohol or gasohol, and I want to compliment them for the work they have done. What they really need in help is some early-on startup financing. So this is a particularly important section of the bill to the State of Ohio, which is rich in grain resources and is rich in surplus corn from which we could produce alcohol.

Mr. WAMPLER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 20 minutes for such use as he would desire to yield, or to yield back the balance of his time, to the distinguished chairman of the Subcommittee on Housing and Community Development, the gentleman from Ohio (Mr. Ashley).

Mr. ASHLEY. Mr. Speaker, I rise in support of the conference report on S. 932. Before I discuss the elements of this legislation which fell within the province of my subcommittee, I would like to take a moment to express my esteem and respect for the distinguished chairman of the conference, my colleague and long-time friend Bill Moorhead. He had the intellectual capacity, the patience and abiding good humor to see us through the long and seemingly endless task of developing this complex and demanding legislation. I believe that this conference report, the product of more than a year of work and months of arduous negotiation with the Senate, is a fitting capstone to a distinguished career.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. STANTON. I appreciate the gentleman yielding, and I asked him to yield for the purpose of joining the gentleman in congratulating our colleague, the gentleman from Pennsylvania (Mr. Moorhead), on this legislation. There is plenty of room, of course for honest disagreement in regard to the quality of the legislation. But certainly the gentleman from Pennsylvania deserves the accolades of everyone for the time, the effort and the ability that he put into this legislation. And in complimenting the gentleman, I certainly want to extend that to some of the key members of the staff who worked so hard with the gentleman and others on both sides of the aisle on a subject matter that was diverse, which was technical, and which in many ways truly wore many

of us down. But it was the gentleman's diligence and endurance, more, I think, than anyone else's, that stuck to it.

Mr. ASHLEY. Mr. Speaker, I appreciate the comments of my good friend, the gentleman from Ohio. As a matter of fact, I was going to express my further appreciation to the gentleman from Connecticut, the ranking minority member, and to my friend from Ohio, for their enormous contribution in the process which produced this conference report. I then discovered, of course, that my friend from Ohio had decided not to sign the conference report or support the report, so I, of course, must at this juncture limit my compliments to those who are indeed deserving and who are consistent in their support of this program.

In all seriousness, whether the gentlemen from Ohio (Mr. Stanton) is supportive of the conference report or whether he feels it is necessary to the legislative process is one that has the appropriate and continuing respect of all of us.

Mr. Speaker, as I stand here today I am reminded of how much has occurred since we enacted the first National Energy Act almost 2 years ago. That act represented the first concerted effort by this body to develop a comprehensive strategy to deal with the Nation's energy crisis: A strategy aimed at increasing our domestic energy supplies while at the same time encouraging the conservation of those precious resources.

The legislation today builds upon the foundation of the National Energy Act. It represents a realistic and attainable program by which the Nation can begin to protect itself against the current insecurity of our energy supplies. Through major programs to develop synthetic fuels, biomass, gasohol, and geothermal energy, S. 932 can move us in the direction of energy independence. However, the development of domestic energy resources in and of itself is not enough. The Nation must reduce its overall consumption of energy and it must do so soon. Thus the conference report contains a major new series of initiatives aimed at encouraging our citizens and small businesses to reduce their energy consumption.

It is estimated that through a concerted use of the tools provided in this legislation and those which we provided earlier in the National Energy Act, it will be possible for the residential sector alone to save more than a million barrels of oil equivalent per day by 1990, an amount equal to approximately 6 percent of our current domestic consumption.

Title V which contains the solar energy and energy conservation initiatives builds upon the programs and concepts which this body endorsed 2 years ago. Probably the most significant element of title V is the creation of a solar energy and energy conservation bank. This bank is established within the Department of Housing and Urban Development, but is to be governed by a board of directors representing the major Federal departments concerned with energy policy. It has been designed to be an efficient mechanism to provide financial inducements to owners and tenants of residential and commercial buildings to weatherize their buildings and to utilize solar energy. These inducements have been carefully structured to minimize Federal expenditures while at the same time encouraging the greatest amount of conservation.

In designing the programs of the bank we have been mindful of the availability of Federal tax credit incentives and have sought to reduce duplication and to eliminate the possibility of double subsidization.

At the same time, we have left with the bank a great deal of flexibility in designing its programs and establishing the particular levels of assistance. The parameters which we have set are just that. The bank is expected to establish particular levels of assistance only to the extent necessary to induce eligible recipients to install solar energy systems or make energy conserving improvements. It was clear from the outset that an efficient delivery mechanism was crucially important. Based on our experience with housing programs it was the view of the House conferees that the most effective delivery means was through local lending institutions and thus the bank has been structured to best take advantage of the delivery mechanism which those institutions offer. I should emphasize that the task before the bank is a formidable one. It must actively solicit the involvement of lending institutions throughout the Nation and it must structure its programs in a fashion which will make it easy for these institutions to participate.

Because the programs of the bank are so dependent upon the provision of loans by local lending institutions, the bank has been empowered to conduct a secondary market purchase program of these loans.

Another significant area which has been addressed in title V is the role of utilities in encouraging the conservation of energy. The bill provides for an expansion of the residential energy conservation service program of utility audits which we wrote into the 1978 act. When the residential conservation service program is expanded in 1982, utility audits will be available to multifamily buildings and to small commercial structures which heretofore have made little progress in conserving energy. The conferees, however, have been careful to assure that none of the changes in the utility audit programs will have the effect of delaying the implementation of the program as designed in 1978. To assist the utilities in undertaking their audit responsibilities, the conferees have also provided funding for auditor training by the States.

When we created the utility audit programs in the National Energy Act, there was great concern about the role the utilities would play in the financing of energy conservation improvements. Because of this concern the Congress severely limited the ability of utilities to finance energy conservation. In hindsight, after looking at the financing programs of utilities which were grandfathered by the National Energy Act, it appeared to us that many of our concerns were unwarranted and that sufficient protections against anticompetitive acts and practices could be provided by the States under the supervision of the Secretary of Energy.

We have, therefore, removed the restrictions against utility financing. In doing so it is the expectation of the conferees that utilities will be able to encourage their customers to invest in energy conservation.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Indiana.

Mr. SHARP. I appreciate what the gentleman is saying and his work on this section. I think it is an illustration where we decided the best thing to do was get the Federal Government out of the way

in this particular case, not that we do not have a continuing concern that some utilities might abuse this possibility, but of course they will have to answer to their State regulatory agencies; and consumers in any given State have that protection.

Mr. ASHLEY. The fact of the matter is utilities represent an infrastructure that is absolutely essential if we mean to accomplish the amount of energy conservation that is so important to the national interest.

So I appreciate the comments of the gentleman. I think we have taken the realistic view of the enormous potential that utilities offer in achieving the goals that we have set for ourselves. At the same time the conference report addressed several areas of concern relating to utility involvement in this area, particularly with respect to the potential for anticompetitive practices.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Minnesota.

Mr. VENTO. I think it is a very important point the gentleman from Indiana raises with regard to a congressional decision with regard to this issue in terms of moving the utilities into the forefront in terms of facilitating the conservation efforts perceived in this bill and the other measures to achieve this goal, utilizing those tools.

I would point out one of the statements of the managers is that where conservation is attained by a consumer that we discourage any type of discriminatory rate on that basis. In other words, penalizing consumers that do indeed consume or utilize less energy by virtue of that conservation device. I think that is a very important point at this juncture so we do not see consumers discriminated against by virtue of the fact they might use less energy.

Mr. ASHLEY. Mr. Speaker, in 1978 we were also concerned about the anticompetitive effects of permitting utilities to directly engage in the supply and installation of energy conserving improvements and little has caused us to be more comfortable with that possibility. However, the conferees believe there are ways to permit utilities to assist in the provision of energy conserving improvements while preventing anticompetitive situations to occur. We have, therefore, developed a carefully structured approach whereby utilities can provide to their customers energy conserving improvements through suppliers and installation contractors who are not under the control of the utility. In essence, we have enabled utilities to act as the go-between for their customers with suppliers and installers. This process should make it easier for the residential customers to undertake energy conserving improvements.

There have been many suggestions as to how to assure that energy conservation will be undertaken in a more concentrated fashion. One of these suggestions was brought to the attention of the conferees by Senator Bradley. The Bradley proposal which has been incorporated in a demonstration basis into the bill provides for the installation of energy conserving improvements in residential buildings at no cost to the homeowner. The cost would be borne by the utility through its energy cost savings. This possibility is an intriguing one and the conferees believed that it was worthy of a small-scale and limited demonstration.

An area of concern to both the House and Senate conferees was the weatherization grant program. This program was designed to provide energy conserving improvements in the homes of the very low income but over the last several years significant problems have developed in the delivery of this assistance. We have, therefore, taken a number of steps to facilitate the administration of the program and to assure that it is promptly and effectively utilized.

One of the things which has become evident over the last several years is the lack of coordination among the various energy conservation programs in the Federal Government. A myriad of energy conservation standards have been developed, many of which have been in conflict with each other. It was the conferees' view that it would be untenable for builders and others to follow energy conservation guidelines which directed them to undertake very different steps. To rectify the situation the bill provides for a mechanism to coordinate the development of these standards to assure their compatibility.

Throughout its consideration, the conferees have been motivated by the reality that without prompt action to reduce our dependence upon nonrenewable and imported energy it is inevitable that huge increases in the price of energy and shortages in that energy will develop. The conferees believe that the approach taken by this bill is both realistic in terms of what can be achieved and responsive to the crisis which confronts—

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, first of all, I commend the chairman of the subcommittee for his leadership in terms of the solar and conservation bank and the weatherization program. It has really been outstanding. I would like to do the same with respect to the chairman of the Energy and Power Subcommittee. We have really had great leadership on the majority side, as well as the minority side on these issues. In spite of the fact that we did not in the final analysis get the support of the minority members, we obviously have had the imprint of the gentleman from Ohio all over this particular title. I know if this were the only one, we would have his support.

Mr. Speaker, I would like to raise a point with the gentleman from Ohio (Mr. Ashley) about the solar bank title of this bill. In that title we have directed the bank's Board of Directors to issue regulations for the bank's initial programs within 6 months of enactment. The Board is composed of five cabinet secretaries, and I am concerned that each Secretary will want his department to do a full scale review of the regulations before they are issued. If that happens, it will take 6 years rather than 6 months to get the regulations out for the solar bank. In expediting the regulatory process, the bank must find ways to cut through the redtape that is waiting to ensnarl it. I think we need to make clear that we do not expect each agency represented on the Board to subject the regulations to its own formal review processes. Would the gentleman agree?

I was wondering if the gentleman from Ohio, having served in a leadership position in developing this, would give us some response with regard to my concern.

Mr. ASHLEY. Well, Mr. Speaker, I am delighted to respond to my friend, the gentleman from Minnesota, and say that the gentleman

is absolutely right. We expect the bank to be up and running early next year. We certainly do not want to sit around for months awaiting the action which obviously is crucial; so I think it should be pointed out that the bank is a separate entity which establishes its own regulatory procedures. On this basis, it seems to me that, for example, with regard to environmental issues, the bank itself should establish its own regulations and procedures for compliance with our environmental laws.

Mr. VENTO. Mr. Speaker, I thank the gentleman for his response.

Mr. ASHLEY. Let me also say to my friend, the gentleman from Minnesota, that I think the gentleman does well to compliment the chairman of the Subcommittee on Energy and Power of the Commerce Committee, because his cooperation and coordination of our staffs was something that I have not experienced in many years in the Congress. It just went enormously well. We were not always on exactly the same wave length, but the areas of difference were rationalized in a sensible and I think very productive way.

I just want to say that I think our part of this conference report was the product of as fine a spirit of cooperative effort as any I have ever seen.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. Yes, I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I would like to pay my good friend, the gentleman from Ohio, the same compliment. It was a privilege to work with him. Our staffs worked with remarkable harmony and confidence. I can only commend him and his staff and the members of his committee for the splendid job he has done. I was proud to work with the gentleman.

The SPEAKER pro tempore (Mr. Bennett). The time of the gentleman from Ohio (Mr. Ashley) has expired.

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent to yield 3 minutes to the gentleman from Michigan (Mr. Dingell).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. DINGELL. Mr. Speaker, I would like to take this opportunity to further clarify the intent of the new section 216(c)(2)(E) of NECPA, contained in section 546 of title V of this act, whereby a utility is required to make available the average price of energy conservation contract work.

In no way is this provision intended to allow utilities to encourage adherence to an average price or to engage in price fixing. Rather, the intention is to have sufficient cost information available so that contractors might use the data in calculating their own bids for conservation work. Our hope is that in many instances this might benefit consumers, because contractors might bid below the average price.

The intent of the entire subsection is that utilities should spread their conservation contracting work fairly among all contractors on State lists and to assure that no one supplier or contractor gains an unreasonably large share of the contracts. I assume the gentleman from Ohio (Mr. Ashley) is in agreement with my description of the provision?

Mr. ASHLEY. Indeed, I am. Utilities should take steps to make certain that their disclosure of average price information does not lead to an

artificial stabilization of price nor to any excessive market share for any single contractor. That clearly is our purpose in this regard and I am pleased that the gentleman from Michigan allowed us to clarify the congressional intent in this regard.

Mr. DINGELL. Mr. Speaker, I would like to clarify an issue of concern to me which appears in title V of this act, and also in the National Energy Conservation Policy Act as passed in the 96th Congress. That is related to our subcommittee granting the Secretary of Energy stand-by authority to promulgate plans for utility energy inspection programs, in the event that States—in the case of regulated utilities—and nonregulated utilities fail to come up with their own plans. In the case of the Secretary promulgating plans for the States, we provided in NECPA, and we provide here, that there should be notice and an opportunity for public hearing; the same is not the case with statutory language relating to nonregulated utilities. I trust the gentleman would agree with me that we would nevertheless expect that the DOE would conduct a public hearing in the event it uses its stand-by authority to promulgate plans for nonregulated utilities. Is that correct?

Mr. ASHLEY. Yes. I am in complete agreement with the gentleman that, although a hearing requirement for promulgating plans for nonregulated utilities is not actually contained in the statute, certainly it should be the case that the Secretary of Energy should conduct such a hearing.

Mr. DINGELL. I thank the gentleman, and trust that the Secretary of Energy will heed our statements of concern.

Mr. ASHLEY. Mr. Speaker, I have no further requests for time.

Mr. McKINNEY. Mr. Speaker, I yield 20 minutes to the gentleman from Ohio (Mr. Stanton), the ranking minority member of the Subcommittee on Housing and Community Development, to use as he may wish.

(Mr. Stanton asked and was given permission to revise and extend his remarks.)

Mr. STANTON. Mr. Speaker, I thank the gentleman from Connecticut for being so gracious with the time. It does remind me, Mr. Speaker, in speaking a while ago about the gentleman from Pennsylvania, my neighbor, Mr. Moorhead, that the gentleman from Connecticut, the man on our side of the aisle that probably had the most influence on this legislation, Mr. McKinney, deserves every accolade for the contribution he has made, which has been tremendous, to this legislation.

I would say not only that, Mr. Speaker, but in relationship to other issues and other legislation that has come before our committee over the last couple of years, he has shown great leadership and great compassion in understanding the problems not only within the realm of our committee but on a variety of subjects.

Mr. Speaker, I rise reluctantly in opposition to the conference report. I do so fully aware of the gravity of the international situation and the need to reduce our dependence on other nations for so much of the energy so essential to our economy. Likewise, I am most anxious to see our Nation committed to a well-rounded program to develop alternative energy sources, stimulate conservation, and improve energy efficiency. But in the final analysis I am not convinced that this bill represents the best possible course of action.

Mr. Speaker, Members may note that I did not sign the conference report and ask why.

Frankly, I did not feel comfortable about what I was being asked to sign. Although my staff participated throughout the conference in the preparation of legislative language and the statement of managers changes were being made constantly up to and after the time we were asked to sign the report. This is a large bill covering a variety of diverse subjects, involving large sums of money, and expedited congressional procedures for approving or disapproving very significant matters. I could not in good conscience endorse a report on something as large as this without personally examining the final language of the report.

But at that point I had not really made up my mind whether or not to support the bill. Since that time I have given serious thought to the bill's provisions. Most of the provisions of the bill before you represent the proposal enacted in some haste in the other body and although your conferees performed major surgery on S. 932, it still contains many provisions which this body has never formally addressed. Had we done so I suspect we might well have produced different proposals than those we are forced to consider today.

Title I is divided into parts A and B. Part A contains the Defense Production Act authorities previously passed by the House. Your conferees redrafted this to put all the synthetic fuel authorities in a new section 305 of the Defense Production Act to make it clear that all the sweeping authorities of the DPA were not available for this purpose but only those needed for synfuel production. Some of us were concerned about this when the House bill was initially considered and view this as a desirable clarification.

The bill contemplates that the authority to initiate new synfuels projects under the DPA authority will terminate when the new Synthetic Fuels Corporation becomes "fully operational," which is expected to happen some 9 to 15 months after enactment of this legislation. Considering the normal delays encountered in getting such new operations started, particularly in an election year, and the complications which may occur because of the indefinable legal structure of the Corporation, I think it is highly unlikely the Corporation will be in a "fully operational" status that quickly. To me fully operational means that it is not only staffed but actually prepared to process applications and legally capable of committing for financial assistance. Unless that situation exists we may have to amend this legislation next year to enable projects to move forward.

Part B establishes the new U.S. Synthetic Fuels Corporation and sets forth its authorities and responsibilities. I have mixed feelings about this.

I confess to lingering doubts about the need for and workability of this Synfuels Corporation. One reason advanced for forming it is that the Department of Energy has never implemented the authorities it has to develop commercial-size synfuels plants. So now we propose to create a new Federal entity to do what DOE has failed to do. Unfortunately, this is not all DOE has failed to do. I have come to doubt the wisdom of voting for it and believe we might be further ahead on our energy problems if we had left the private sector more freedom to address them on its own. I continue to be mystified about

the need for such a unique corporate structure and worry that it may pose more problems and delays than it is designed to overcome.

The most objectionable feature of part B is the contemplated procedure for approving the Corporation's production strategy and funding for phase II of its operations—the final 9 years of the Corporation's planned life. Section 126 provides that the Corporation will present a proposal for that last 9 years containing an authorization for the entire period which the committees must act on within 60 days and which must be acted on by both Houses under expedited procedures. I might say there is more congressional control over this in the conference version than in the Senate-passed bill but it is still unsatisfactory.

As the gentleman from West Virginia (Mr. Staggers) noted in one of our conference sessions, we managed to get through World War II successfully with normal authorization and appropriation procedures and there is no reason we cannot handle this problem equally as well. The saving grace is that a future Congress can change this and I pray that one will.

In the final analysis my views on the Synfuels Corporation are that it is an awkward way to attempt to circumvent laws which normally apply to agencies such as DOE. If we really need this level of Government intervention in this market, we would be better served by taking an established agency like DOE and making it work rather than starting from scratch to organize this new Federal entity which may take years to become operational.

Title II deals with biomass energy and alcohol fuels. It contains numerous amendments to existing programs of the Department of Agriculture which members of the Agriculture Committee can comment on. I note that many of the obviously wasteful provisions of the Senate-passed bill have been eliminated and two separate titles have been combined by the conferees into one coordinated title.

But my principal concern about this title is whether there is really any need for \$1.2 billion of financial assistance for plants to generate alcohol from biomass. The technology is well known and in fact licenses to build plants are being issued currently as fast as Treasury can process them. I would hope that the Departments of Agriculture and Energy in administering this program will direct aid to those projects which promote improved efficiency and higher quality products.

TITLE III—ENERGY TARGETS

Title III calls for periodic congressional review of energy targets and the establishment of nonbinding goals for reducing imports, domestic production and end use consumption of energy. While we are obviously obligated to concern ourselves with our progress toward the achievement of energy independence the provisions of this title would seem to provide for a time-wasting exercise in symbolism. The best that can be said for it is that your conferees have made it far less burdensome than the initial proposal passed by the other body.

TITLE V—SOLAR ENERGY AND CONSERVATION

As an early advocate for energy conservation during our considerations by the Subcommittee on Housing and Community Development

of this legislation, I am especially dismayed with the final product that has emerged from the conference with respect to titles V and IX.

The initial bill (H.R. 605) which was reported out of the Banking Committee received broad bipartisan support. This support largely centered around a firm agreement to authorize funding for conservation and solar subsidies from proceeds of the energy security trust fund. As a matter of fact, this funding tie-in with the ESTF was in linchpin for the support of many Banking Committee members. This important element, which was ratified by two committees of the House, has been abandoned by the conference in favor of the dubious process of placing even more burdens for such subsidies on the backs of the taxpayer.

Another essential element which was regrettably lost in conference, and which also was a foundation for providing protection for this substantial Government investment was the abandonment of the requirement in the House position that assured expenditure of Government-subsidized loans for solar systems that are the most energy-efficient systems.

During and after the Banking and Commerce Committees completed action on these titles of the bill there was much criticism voiced that the approach for delivering such subsidies was "much too complex." In comparison to the level and magnitude of complexity, both for the cumbersome administrative establishment and the additional 20 or more permutations and methods required to calculate and deliver these subsidies added by the conference, the bill reported by the Banking and Commerce Committees looks like a sleek and streamlined model.

The House position we support did not contain a grant program, but this conference report creates one that may well prove unworkable and needlessly expensive.

Mr. Speaker, perhaps if the full House membership were now to be given an opportunity to consider the specifics, which has been denied them on titles V and IX of this report, many of the defects and complexities could be corrected. But, it is apparently more essential and politically expedient to rubberstamp this conference report for a Fourth of July ceremony, perhaps in the Rose Garden.

I must, therefore, oppose this overly complex and excessively cumbersome approach which may well, in fact, result in slowing down the process of encouraging the American public to conserve energy.

Title VII provides for a study of acid precipitation and carbon dioxide. I am pleased that the conferees have been able to rewrite this title as they have. As initially passed by the other body the study would hardly have seemed necessary as the conclusions seemed to have been reached in advance. As now written we can hope for an objective study which is what we need regarding a subject about which we presently know so little. For example, one recent study indicated that the effects of acid rain on various crops had highly diverse effects, from moderately adverse on some to highly stimulative on others. There is much we need to know about all aspects of this phenomenon and under the amended language of this title I believe it will be possible for the study to be approached objectively.

Title VIII provides a mandate to the President to renew deposits into the strategic petroleum reserve at a rate of 100,000 barrels per

day. Despite the possible offense to the Saudi Arabians I favor this; our national security demands it and they must understand this.

However I am somewhat dubious as to the effect of two amendments offered in the final minutes of the conference regarding the use of entitlements and royalty oil. Like so many things in this conference rather technical proposals were offered at the last minute with explanations being glossed over so cavalierly that few not privy to the amendments could really grasp their significance. In this instance two Members of the other body in disagreement over how best to reduce the cost of obtaining oil for the SPR agreed to meld their amendments into one, the language of which none of us could see until it appeared later for the conference report printed in the Record. I trust they will be effective in reducing the cost of filling the reserve but it is still unclear where the incidence of the remaining costs will fall upon users of gasoline or all taxpayers equally.

Mr. Speaker, the bill before us today is a far more expensive and extensive bill than that reported last year by the Banking Committee and subsequently passed by the House. As anyone can see, S. 932 covers subject matters well beyond the jurisdiction or the expertise of the Banking Committee and I want to express appreciation for all the help and expertise provided by the members and staffs of the Committees on Agriculture, Interstate and Foreign Commerce, and Science and Technology who shared the conference responsibilities with us. Their knowledge of the technologies involved in producing the various forms of energy addressed in the bill were essential to understanding the Senate passed proposal and the conferees efforts to make them workable.

Despite the best efforts of everyone I still believe the bill is excessively costly, that some provisions are too complex to be workable, and that it provides more Government involvement than is desirable. I must reluctantly vote against the conference report.

Mr. STANTON. Mr. Speaker, I ask unanimous consent to yield 5 minutes to the gentleman from Arkansas (Mr. Bethune).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

(Mr. Bethune asked and was given permission to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, we are all for synfuels, but I am worried about a part of this bill, and the part of it I am worried about is that which allows for an enormous amount of Federal credit assistance.

Last fall we got all worked up about the Chrysler bailout proposal which was a mere \$1.5 billion. Here today we are talking about credit assistance which is virtually 60 times the amount we were considering in the Chrysler matter.

As a result of that debate about Chrysler, the administration and Congress got concerned about runaway Federal credit programs. The President made recommendations in his budget proposal this year that certain programs should have a credit ceiling, and that was referred to as the President's credit budget. In the Congress, in the budget resolution this year, for the first time we included a sense of Congress

resolution that we should have a ceiling on the aggregate amount of Federal credit assistance programs so we will know where we are.

Why were we alarmed about the status of Federal credit assistance? The reason we were alarmed is because such programs are completely out of hand. We do not now know the nature and extent of outstanding loan guarantees and other Federal credit assistance programs. Much of it is off of the budget. The CBO says there is now nearly \$500 billion in outstanding commitments, but that is as close to it as they can get.

We are subsidizing certain activities, but we have no logical system to apportion those benefits throughout our economy because there is no disciplinary mechanism to control overall lending activity.

We do not know the economic impact. I have heard speaker after speaker take this floor and say loan guarantees do not cost anything so long as we do not have a default. In other words, if it is paid off there is no cost. That is just not correct, because there is only so much credit out there in the marketplace. If my colleagues could visualize a pie—when we subsidize a particular loan activity—we draw credit to that activity and take it away from other activities. In many instances we subsidize those ventures which are the least productive ventures.

Accordingly, we are allocating money in the credit market to non-productive ventures and taking it away from productive ventures. That is inflationary; therefore it has an economic cost in the long term.

With respect to synfuels, and with respect to Chrysler, we are getting into something a little different. In the case of FHA housing, we have a diversity we do not have in the case of synfuels and in the case of the Chrysler Corp. In the case of FHA housing, we have many people who are buying homes. We also have geographical diversity in that loan program and, accordingly, the risk of loss is very small. But in the case of synfuels, we are putting all our eggs in one basket. If the synfuels concept is bad we are stuck with it because it will all go down at one time. It either all stands or it all falls.

This idea started out as a \$3 billion program. I remember when it came through the Banking Committee under the guidance of our distinguished chairman, and I supported it. All of us are for shifting to coal and doing what the Germans did in World War II—making gasoline out of coal—developing alternative sources of fuel. But now this thing has mushroomed to the point where we are talking about \$20 billion, and then another \$68 billion in credit assistance. All of this is going to be off the budget. As I said before, we will be locked into it. We will not be able to get away from it.

Under no circumstances would this Congress let this program fail so that we would have to pick up those debts. So, we will just keep going on and on, as was predicted during the Chrysler matter. What we are doing is busting our own credit budget which we just set about 10 days to 2 weeks ago in this Congress, and we are probably busting the President's recommendation on credit because, as I understand it, he only wanted to use about \$2 billion in fiscal year 1981 for synfuels credit. We really do not know what we are doing here insofar as the extension of Federal credit is concerned.

My main point is I think probably we are moving too fast. We may be making a mistake by getting the cart before the horse. We should

develop a system to control these off-budget assistance programs so we can analyze the economic impact of what we are doing here in the Congress. We spend all kinds of time talking about the economic consequences of tax and spending, but we spend almost no time talking about lending activity which impacts the economic system just as much as taxing and spending.

I think before we launch into this much farther we ought to take a second look at it. It has been rushed to the floor because there is pressure to get this done by July 4 so the President and Congress can declare Energy Independence Day on July 4. I am not really impressed with the urgency because I recall last year when the \$3 billion plan was before us here, the majority leader said, "We need to pass it by July 4 so we can declare energy independence on July 4." So this is really Energy Independence Day No. 2 we are worshipping here. We have let a whole year go by since the smaller bill was considered last July 4. We should spend a little more time and get the cart before the horse by setting up a system to discipline this body in the way it hands out Federal credit assistance.

Unfortunately the rules of the House do not permit us to slow down and amend the legislation to limit runaway credit assistance. If the rules permitted it, I would do it—but they do not. We only have the option to vote up or down on the conference report with no amendments.

Even though I am voting for this bill, it is my intention to continue pressing for a system to get credit assistance programs under control. We need synfuels but we also need to realize that we cannot continue to make *carte blanche* extensions of off-budget credit and spending. It will catch up with us by and by.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STANTON. Mr. Speaker, I ask unanimous consent to yield 4 minutes to the gentleman from California (Mr. Shumway).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SHUMWAY. Mr. Speaker, I appreciate the yielding of time to me by the ranking minority member of the Banking Committee to give me an opportunity to add my voice to those who have expressed concern over this bill, H.R. 3930, and the conference report which is now before the House.

Mr. Speaker, I rise in opposition to that report. In doing so I would like to make it clear to my colleagues in the House that as a member of the Banking Committee and a long-time supporter of the development of alternative fuels and synthetic fuels, I was an initial cosponsor of H.R. 3930. I voted for it in the Banking Committee, and I supported it when it was considered here on the floor of the House of Representatives last year. But at that time that bill was designed simply to amend the Defense Production Act to promote the commercial production of synthetic fuels. In doing that, in reporting out that bill, our committee worked very long and hard to produce what I thought was a very simple and straightforward piece of legislation which provided the necessary incentives for the private sector to make what on a national basis is correctly perceived as an essential commitment to synthetic fuels production.

It is unfortunate, Mr. Speaker, that by the time the conference committee had completed its work on this bill, the simple 14 pages as we reported it out of the House emerged as a 412-page compendium of some eight titles, only one of which and part of another of which were ever considered here on the House floor. The amount of funds grew by the same extent. Initially we had authorized some \$3 billion. We now have a bill that speaks of something in the nature of \$30 billion, and the direct role of the Federal Government in this program is similarly enhanced.

Mr. Speaker, I am very much aware of the urgent need that we have in this Nation to move toward energy independence, and I have in the past and I will continue to support realistic and sensible efforts to this end. But I cannot blindly support the kind of legislation which is before us today which would have us commit billions of dollars over many years to programs which may or may not produce the desired results. The House has never debated the fundamental questions which are raised by this conference report, and without going into further detail, I know that Members have already spoken and will speak eventually on some of these points. I would simply like to suggest to my colleagues in the House that a vote in favor of this conference report would represent to me an abrogation of our legislative responsibility.

Mr. STANTON. Mr. Speaker, I ask unanimous consent to yield 2 minutes to the gentleman from Ohio (Mr. Wylie).

The SPEAKER pro tempore (Mr. Peyser). Is there objection to the request of the gentleman from Ohio?

There was no objection.

(Mr. Wylie asked and was given permission to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, I especially like the solar energy and conservation sections of this bill because they take on pretty much the character of the bills which were reported out of the Banking Committee. But while I am here, I want to join in congratulating my colleague, the gentleman from Ohio (Mr. Ashley), for his strong work in this area and in these particular sections. And I am reminded particularly of his strong opposition to an energy audit provision which would have provided for an energy audit on the transfer of every house in the United States under the conservation section. I cannot think of anything which would hold up conservation installations longer than to have every single house studied to see if it complied with the energy conservation standards in this bill.

I also want to congratulate the gentleman from Ohio (Mr. Stanton) for his contribution to the original solar-conservation legislation and to the work of the conference on these particular sections. At the same time, and while I am on my feet, I want to congratulate the gentleman from Connecticut (Mr. McKinney). A lot of other people have done a lot of work, but he did a great workmanlike job as a minority member on this committee on the conference, and I think he should be complimented.

Also I want to recognize the tireless, conscientious and excellent work of the gentleman from Pennsylvania (Mr. Moorhead).

This section does recognize the need for a new subsidy program and at the same time takes into account—and I do not mean to be pre-

sumptuous—a concept which I offered on tax credits for solar energy installations several years ago and which was adopted on this House floor and later passed into law. But I would say the House conferees pretty much had their own way on these two sections of the bill which, indeed, improved the legislation in this area. We have a comprehensive and what I know will be an effective solar energy program contemplated by this bill.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STANTON. Mr. Speaker, I have no further request for time on the subject matter assigned, and I yield back the remainder of my time.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I now yield 20 minutes to the distinguished chairman of the Committee on Science and Technology, the gentleman from Florida (Mr. Fuqua).

Mr. FUQUA. Mr. Speaker, I yield myself 5 minutes.

(Mr. Fuqua asked and was given permission to revise and extend his remarks.)

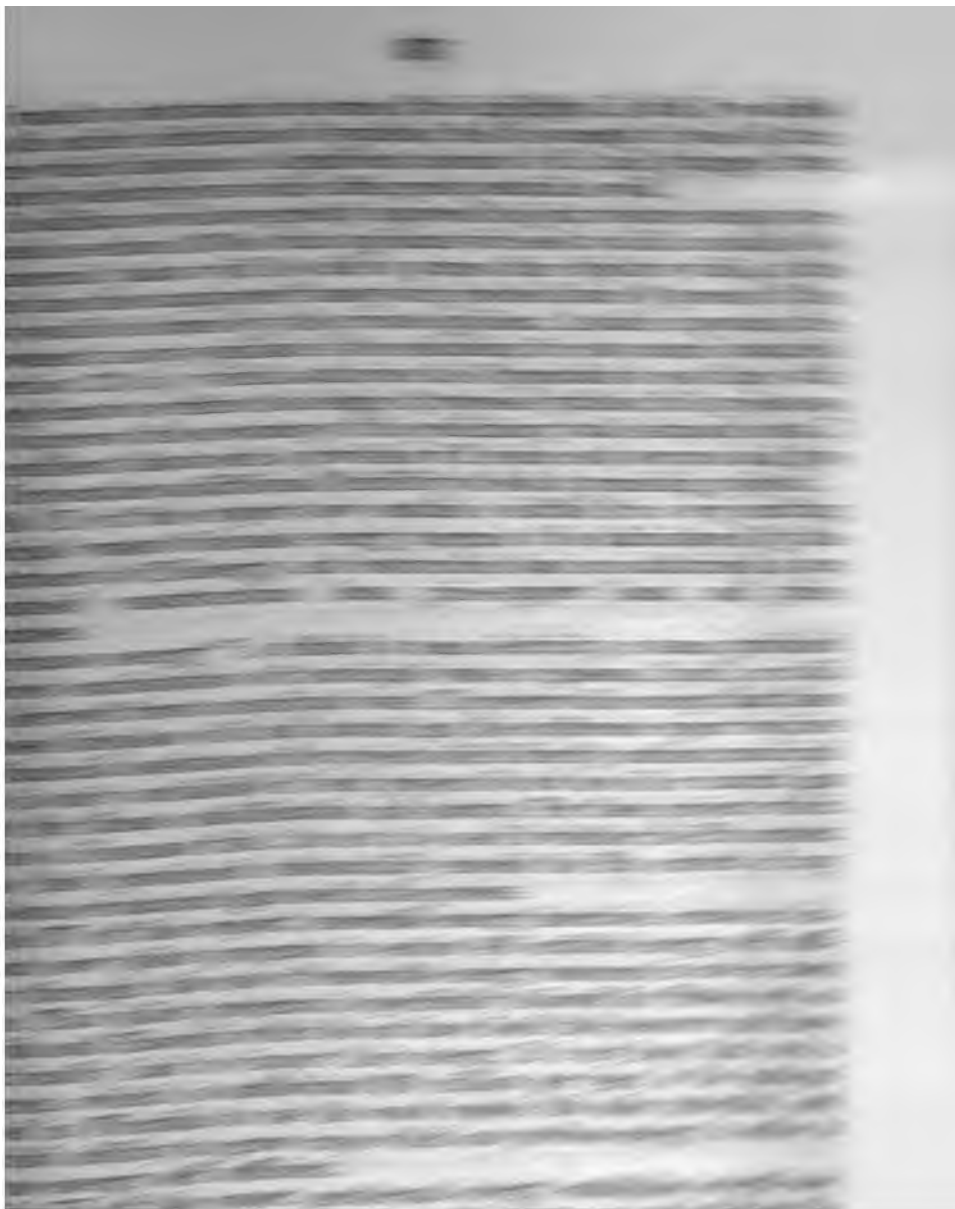
Mr. FUQUA. Mr. Speaker, today I would like first of all to take time to express my appreciation to the chairman of the conference, the gentleman from Pennsylvania (Mr. Moorhead), for the patience and the time that he devoted in trying to get this conference put together resulting in a bill that I think the House can support. Also I would like to congratulate the distinguished ranking minority member of the subcommittee, the gentleman from Connecticut (Mr. McKinney), for his work in helping bring this bill to us on the floor a year ago and that led to this conference that we had, which I do not think could have been really accomplished without the great leadership of our majority leader who spent endless hours and time in putting the fractured parts back together. He certainly deserves a great deal of credit for his work.

Mr. Speaker, today is a benchmark day for energy production from our domestic resources. The Conference Report No. 96-1104, which has been worked out over the last 8 months, contains the best approach which we could work out to encourage the private sector to develop our domestic resources into usable liquid, gaseous, or solid fuels.

The work in conference has been long, and has taken many, many hours, but I feel that we have needed this to perfect the many new incentives contained in this bill.

The Committee on Science and Technology enacted into law the Non-Nuclear Act in 1974 and began its efforts in 1975 on synthetic fuels. After a number of difficult battles: first on the conference report for the Energy Research and Development Administration on December 11, 1975, where loan guarantees were defeated, and then on September 23, 1976, when the rule for H.R. 12112 was defeated by one vote, it successfully enacted into law Public Law 95-238 which provides loan guarantee authority to the Department of Energy for synthetic fuels and municipal waste. These authorities are funded now in Public Law 96-126 and have provided the base for getting things moving through feasibility studies, cooperative agreements, and loan guarantees until this legislation is signed into law.

With this perspective from past efforts the conferees have worked to shape new legislation that addresses the many diverse resources and technologies that can be utilized to produce energy. In this statement



Title VII of the report, acid precipitation program and carbon dioxide study, sets up a major new \$50 million 10 year national effort to examine the problems which may be caused by manmade sources of acid precipitation, while not excluding natural effects. The research programs include the four national energy laboratories, Argonne National Laboratory, Brookhaven National Laboratory, Oak Ridge National Laboratory and the Pacific Northwest National Laboratory. The acid precipitation task force is to be chaired jointly by the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Administrator of the National Oceanic and Atmospheric Administration.

I am especially pleased that the conferees have endorsed the concept of an active role in the research and its management by the four national energy laboratories. We have tried to make it clear, however, that the overall direction does come from the joint chairmen of the task force, and to provide that the research funds are to be made available to the NOAA which serves as the director of the research program.

Mr. McKINNEY. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. Fish).

(Mr. Fish asked and was given permission to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, I thank my colleague from Connecticut for yielding to me. I am particularly happy my opportunity to speak came just after the gentleman who just spoke to us, the chairman of the Committee on Science and Technology, the gentleman from Florida (Mr. Fuqua). I think all but two titles in this conference report contain some R. & D. initiatives that are critically important, in my judgment, to our addressing this problem.

Mr. Speaker, I rise in support of the conference report on the Omnibus Energy Security Act of 1980. This legislation will allow us to press forward with the development of synthetic fuels made from our coal, biomass, and even our urban waste resources. It also provides important elements for our solar and conservation programs—programs that I believe are essential to our national energy strategy. With this legislation, I am confident that we will be able to take full advantage of most of our domestic energy resources.

I would like to commend the conferees on the omnibus energy legislation for their fine work and long hours in structuring a comprehensive synthetic fuels program. They should be congratulated for their great efforts. This legislation is another critical step in facing our energy issues squarely and in helping our Nation reduce its reliance on foreign oil supplies. Because of their efforts, I believe the world will now know that we are indeed firmly committed to solving our energy problems and becoming energy independent.

Many elements of this legislation are worth noting in detail, and I would just like to mention a few. Of great importance is the establishment of the Synthetic Fuel Corporation, which will help us reach the initial goal of 500,000 barrels of synthetic fuels from coal by the year 1987. This Corporation is authorized to spend \$20 billion during phase I of the program for the production of synthetic fuels from coal, oil shale, and tar sands. It will help us take advantage of the potential billions of barrels of oil or energy equivalent which can be obtained

from oil shale, tar sands, and the vast abundance of coal reserves which lie in our country. I believe that the conferees have given the Corporation the power to proceed in a rational and appropriate pace to develop an effective synthetic fuels program.

I was particularly pleased to see the conferees recommend the establishment of an accelerated program to convert our municipal wastes into energy. I have found it extremely disturbing to see that these wastes have, to date, remained largely a grossly underutilized energy resource. The Subcommittee on Energy Development and Applications has heard on numerous occasions about the great energy potential of municipal wastes. We have heard that about 270 million barrels of crude oil per year could be saved if all of the municipal solid wastes and sewage sludge available in the United States were processed. Furthermore, recent estimates indicate the municipal waste-to-energy plants could contribute between 5 and 6 percent of the total energy requirements of U.S. electric utilities.

Unlike several alternative technologies, municipal waste can produce energy in the near term. Opportunities are now available to use this resource for various types of applications: Boiler fuels for industry, transportation fuels, and electrical production. In spite of recent progress, however, municipal solid waste remains a virtually untapped resource. Realizing its use depends in large part on the development of improved conversion and recovery technologies, and overcoming various economic and institutional barriers.

With its great potential in mind, I am pleased to see that the conferees have also found it important to create a program in municipal wastes. This program will provide the financial assistance that is needed to get many more municipal waste-to-energy plants on line now. If we actively pursue this program, I am confident that municipal wastes can provide us with a significant amount of energy in the early 1980's.

In addition to municipal wastes, this legislation provides for a rigorous conservation and solar program. The establishment of an energy development bank for conservation and solar energy measures is of great significance and will help us accelerate our use of these resources. I have long been a supporter of programs to develop both our conservation and solar resources. Based on several recent studies, I believe that they can play a significant role in our overall energy strategy. The Harvard Business School has indicated in its recent study, "Energy Future," that our Nation could consume 30 to 40 percent less energy, and still enjoy our same or an even higher standard of living. Other available information indicates that conservation is the most immediate and cost-effective means to deal with our current energy problems. Given this overwhelming evidence, it is clear that our Nation cannot afford to miss out on the great benefits of energy conservation.

The energy development bank will also play instrumental role in helping our Nation meet the goal of deriving 20 percent of our energy needs from the Sun by the year 2000. We have heard much about the need to overcome the economical problems which solar now faces. I am confident that this new bank will help solar technologies become more competitive in the marketplace at a faster rate and allow us to reap the enormous benefits which they have to offer.

For small hydroelectric power systems, new legislative initiatives are also provided to help tap this promising energy resource. Small-scale hydroelectric development offers energy-poor areas of the country, including the State of New York, a cost-competitive, environmentally sound method of energy. According to the Corps of Engineers, the maximum development of our Nation's hydropower potential at existing dams could result in an annual increase of 160 billion kilowatt hours of electricity—a savings of 727,000 barrels of oil per day. Based on these estimates, there is no doubt that hydropower can play a significant role in reducing our foreign oil imports.

Mr. Speaker, today we are taking a great step forward to meet our future energy needs. I believe that this legislation will help our Nation finally get on the right energy track. It confirms our commitment to becoming energy independent. In the years ahead, I believe that legislation will be seen as the major domestic energy production initiative taken by the Congress since the OPEC cartel was faced. I believe that this is a piece of legislation that we can all be proud of, and something we can take back to our constituents as an example of our commitment to energy independence. I urge the adoption of the conference report.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to yield 1 minute to the distinguished gentleman from Missouri (Mr. Volkmer).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

(Mr. Volkmer asked and was given permission to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I wish to commend the gentleman from Florida and the other members of the conference committee for bringing before us this monumental piece of legislation today. I say we now are ready to start again a synthetic fuels program that was begun actually under the Truman administration 31 years ago. At that time, during the 4 years from 1949 to 1953 we produced from coal through liquefaction and through gasification, in Louisiana and Missouri, in my district, liquid fuel in order to propel motor vehicles, railroads, trains, airplanes, et cetera. That was stopped in 1953.

I believe that history will show that was a very bad action by the Congress and the President. Had that and similar projects not been stopped we would be well on our way today to energy independence. I say we have to have this bill and I urge every Member to vote for it so that we do become energy independent.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to yield 4 minutes to the distinguished gentleman from Michigan (Mr. Wolpe).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

(Mr. Wolpe asked and was given permission to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, in what has probably been my most difficult decision in this session of Congress, I rise in reluctant opposition to the conference report before us. This has been a very difficult decision because the greatest part of my time during this session has

been devoted, through my work on the Committee on Science and Technology, to encouraging many of the initiatives embraced within his conference committee report.

There is much that is sound and worthwhile in this report. The alcohol incentives and the creation of a conservation and solar bank are two examples of energy initiatives that are long overdue and that will help move this country toward the goal of energy independence and away from our dependence on diminishing fossil fuels. This makes sense for both our short-term and long-term energy policy.

At the same time, there is too much in this bill that is simply bad public policy.

I would like to emphasize that 1 year ago today, I supported the Moorhead bill when it was before the House. I viewed this measure as a responsible and moderate approach to stimulate a domestic synthetic fuels industry.

However, the bill before us, which projects an ultimate \$88 billion commitment to synthetic fuels, continues the historic pattern of providing ad hoc Federal energy subsidies—not in response to an objective economic analysis of how our country's limited capital resources can be most effectively invested, but in response to the pressure of the powerful oil and coal interests; not in response to how we can, in the most cost effective way, most quickly displace petroleum, but rather in response to the latest energy fad.

I submit that the provision of Federal energy incentives should attempt to allocate increasingly scarce capital resources in the most efficient way.

Our energy policy should not be based upon the pressure of special interest groups, but upon an analysis of how we can most quickly displace the largest quantity of petroleum at the lowest possible economic, social, and environmental cost.

But there is no such criterion embraced within this report. We are committing ourselves to the continued provision of massive subsidies to synthetic fuel production without regard to the comparative cost-effectiveness of competing alternative energy technologies. Consequently, the primary long-term effects of the extraordinary Government commitment to the commercialization of synthetic fuels will be to drain capital resources from competing energy alternatives and to seriously distort the economics of the energy marketplace. This is precisely what we have done in the past—allowed unjustified subsidies to distort the marketplace, and thereby delayed the implementation of an effective national energy policy.

This legislation will continue the policy of diverting scarce capital resources into the most capital intensive energy technologies. I am reminded, in this connection, of the administration's own figures that indicated that we could be displacing a barrel of petroleum through a national residential weatherization program at a cost of \$10 per barrel. That same oil displacement, attained through some of the synthetic fuel technologies that we propose to subsidize in this legislation will cost, at a minimum, between \$37 and \$42 for that same barrel. I stress, "at a minimum," because the Rand Corp., in testimony before the House Science and Technology Committee, reported that pilot energy projects have cost, on the average, two-and-a-half times this original estimated project cost.

A Princeton University study indicated that by the year 1990 we could displace, by residential conservation alone, 2.5 million barrels of oil a day—at a cost of \$10 per barrel displaced. And yet the goal of the legislation before us is to invest \$20 billion so that by 1987 we can displace no more than 500,000 barrels a day through synthetic fuel at a cost, again, of at least between \$37 and \$42 for that same barrel of oil displacement. In addition, a massive conservation program could begin to displace petroleum much more quickly than spending large sums on as yet unproven synthetic oil technologies which may, in addition, entail substantial social and environmental costs as well. I submit that this bill is a bad investment; a bad investment in the short term, and a bad investment over the long term.

Despite its meritorious features, I believe that this bill will retard, rather than facilitate, the move toward energy conservation, and the development of safe, and renewable energy resources. As a consequence, I feel that this legislation will further impede the development of a comprehensive national energy strategy and result in a massive waste of taxpayers' dollars on uneconomical and undesirable projects. I fear that what we are about to unleash through the creation of this Government Corporation is a new national pork-barrel of unparalleled dimension—and it will be not the American public, but the coal and oil interests, that will be its principal beneficiaries.

Mr. FROTA. Mr. Speaker, I ask unanimous consent to yield 1 minute to the distinguished majority whip, the gentleman from Indiana (Mr. Brademas).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

(Mr. Brademas asked and was given permission to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, S. 932, the Energy Security Act of 1980, on which the House will vote today, will stand for years as an outstanding accomplishment of this Congress. Indeed I predict it will rank as one of the major accomplishments of any Congress.

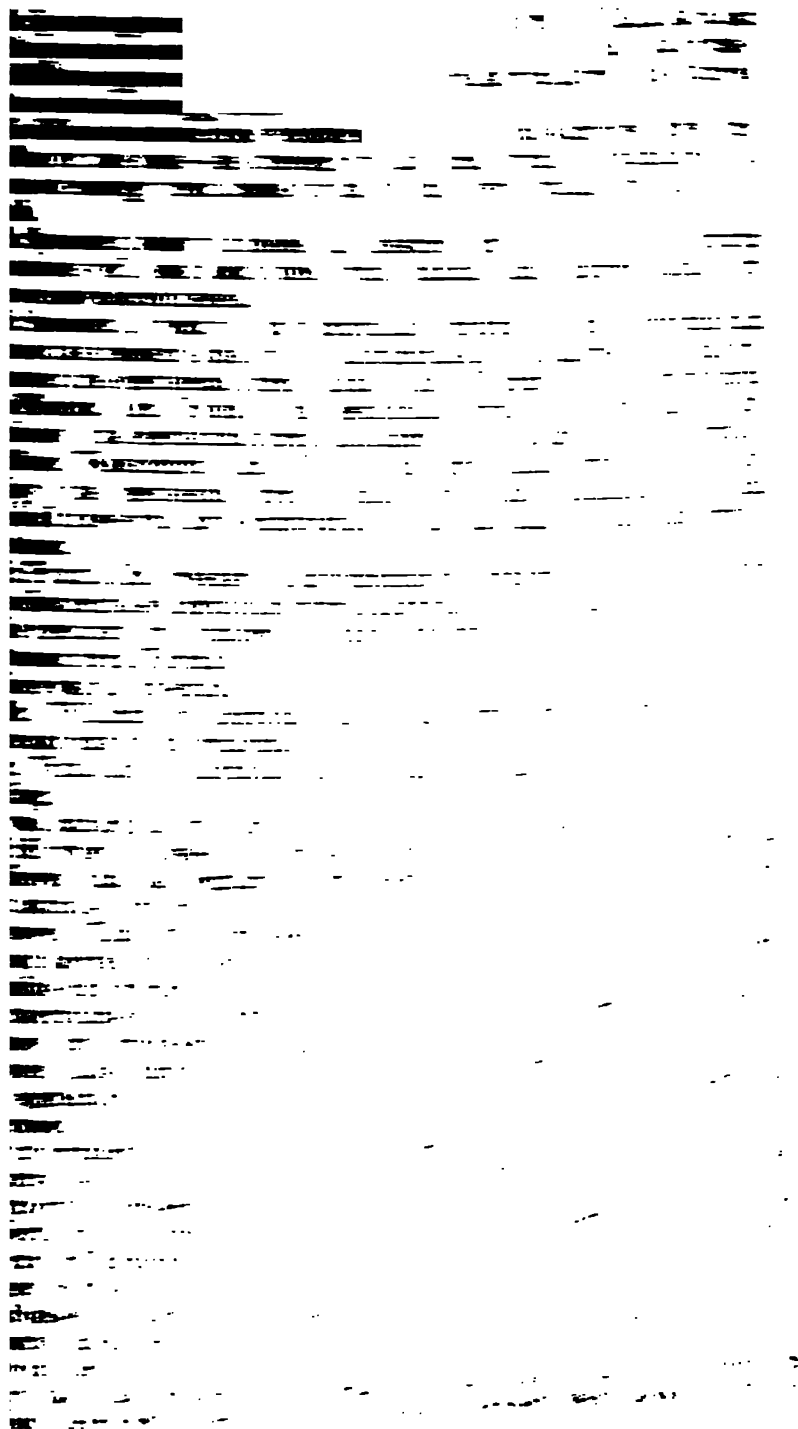
This legislation, which we shall soon send to the President for his signature, will go a long way toward eliminating the dependency of the United States on other nations for energy.

Mr. Speaker, in recent years we have made great strides to alleviate our energy problem, but the Energy Security Act offers, for the first time, significant advances in a variety of areas.

The impetus the legislation provides for the development of a synthetic fuels industry may well be its most significant provision and is the section receiving the most public attention. But the legislation also promotes the production of alcohol and other fuels from biomass and the development of solar energy. Other provisions offer additional forms of new energy development.

The production of 500,000 barrels a day of synthetic crude oil is established as a goal for 1987, increasing to 2 million barrels a day 5 years later.

By the end of 1982, the legislation envisages the production of 60,000 barrels a day of alcohol. By 1990, the goal for alcohol production would be 10 percent of domestic gasoline consumption.



when the governments of Alberta, Ontario, and Canada converged to pump in the necessary public funds to save the project.

The energy crisis in this nation is testing, not just our ability to domestically produce energy and to embark on and persevere with a national conservation effort, it is also a test of our reason and prudence in carefully fashioning legislation which promotes the appropriate development of the various energy technologies available to us. In part, the synthetic fuels section of this bill does not measure up to that test. I am, of course, encouraged that the major magnetohydrodynamics effort is included as a synthetic fuel project. Such inclusion demonstrates the understanding of the conference committee that we must broaden our concept and definition of synthetic fuel production.

In the other sections of the bill it does measure up to providing energy direction on several fronts: the alcohol fuels program will now be on the move; conservation is at last given practical direction; solar energy receives assistance, rather than neglect; and, the strategic petroleum reserve is resumed.

This legislation has my support, despite the fact that it needs improvement and despite the fact that in some measure it represents political, rather than technological considerations.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to yield 1 minute to the distinguished gentleman from Kentucky (Mr. Hubbard).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

(Mr. Hubbard asked and was given permission to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, I rise in support of the conference report on S. 932, the Energy Security Act of 1980.

I strongly support the conference agreement which authorizes the establishment of a U.S. Synthetic Fuel Corporation. This agreement would also create a solar energy and conservation bank, determine incentives for alcohol production from biomass, and direct the President regarding the filling of the strategic petroleum reserve.

I am sure my colleagues in the House are aware that there are no commercial-sized synfuel plants now operating in the United States. In fact the largest synthetic commercial plant in the world is the SASOL plant in South Africa. With these facts before us, in addition to the realization of the gasoline shortages that we as Americans have suffered in previous years, I urge that we move forward toward freeing ourselves from the chains of OPEC by passing the conference report on the Energy Security Act.

My district, the First Congressional District of Kentucky, has an abundance of coal which is idle while we slowly ponder over legislation which can effectively put it to use in American homes, automobiles, factories, farm machinery, and a number of other energy needs. Currently, there are four synthetic fuel plants under consideration for western Kentucky: a demonstration facility to be constructed by Wheelabrator Frye at Newman, a W. R. Grace facility at Baskett in Henderson County, a plant very similar to the South African "high technology" SASOL plant, to be built at Geneva in

Lenderson County under the auspices of Texas Gas Transmission Corp. and Texas Eastern Corp., and a possible Hygas demonstration project in Webster County. These plants will convert several thousand tons of coal per day to synthetic liquid boiler fuel. This is the kind of production we must have if we are going to achieve energy independence in America before the end of this century—independence that must be achieved.

Further, this conference agreement does take into consideration the need for increased synthetic fuel production and does allow incentives that would encourage businesses as well as the general public to become involved in efforts to alleviate the oil shortage through the use of alternative fuels.

I assure you that though we may be late in starting and though the cost seems high, we as Americans who have experienced the long gasoline lines, and the continuing "stranglehold" of OPEC and energy dependency, have no choice but to proceed with the creation of a strong synthetic fuel industry. I urge you to vote for the passage of this most important legislation.

Mr. FTQCA. Mr. Speaker, I ask unanimous consent to yield 1 minute to the distinguished gentleman from North Carolina (Mr. Neal).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

(Mr. Neal asked and was given permission to revise and extend his remarks.)

Mr. NEAL. Mr. Speaker, we are considering today the conference report on the Energy Security Act of 1980. In my opinion, it is one of the most important pieces of legislation to come before this House in recent years.

I say that because I think it confronts head-on—and perhaps for the first time—in serious and innovative ways the haunting problem of providing energy for America's future.

For at least the past 5 years, we have struggled with the problems of diminishing domestic petroleum reserves, increasing dependence on foreign oil, and discovery and development of new sources of petroleum. Those efforts have not been wasted—for we need to make the best use of however much petroleum there remains—but they have given scant attention to the development of alternatives upon which future generations almost certainly will have to depend.

I support the conference report, and I commend the committee for the excellent work it has done in the long and tedious process of hammering out the differences between the House and Senate versions of the bill.

The purpose for which I rise, however, is to point out to the same 137 cosponsors of H.R. 605, the solar bank bill, that the provisions of H.R. 605 are embodied in title V of the conference report now before us. I would say, further, that it closely conforms to the solar bank concept, as originally envisioned in H.R. 605, and is enhanced by the addition of the conservation provisions of title V.

Mr. Speaker, we have been a considerable time in coming to this visible and meaningful support of solar energy. I will not recite the legislative history of solar bank concept, except to say that I worked

on it for almost 2 years before introducing it in 1977. When we first held hearings on the bill, it got a cool reception from the administration. And although the bill was reported out of subcommittee late in 1978, it did not make full committee consideration before the 95th Congress adjourned.

Early in 1979, I reintroduced the bill and with the help of a great many colleagues, it was passed out of the Banking Subcommittees on Domestic Monetary Policy, and on Housing, and then the full Committee on Banking, Finance and Urban Affairs. In the Senate, the concept was contained in an identical bill introduced by Senator Robert Morgan, to whom we are indebted for his hard work, influence, and guidance through the deliberative process of that body. And so today we have before us as a major title in this most important legislation, the culmination of what to many of us has been both a dream and a goal to which we ardently aspired.

The provisions of title V are adequately described in the report. Mr. Speaker, so I will not burden my colleagues with a repetition of all that the title contains. Very briefly, however, it creates a solar energy and conservation bank within the Department of Housing and Urban Development (HUD) to provide assistance, through interest subsidies, to the purchasers of solar energy equipment, and to others who make energy conservation improvements to new or existing buildings. The solar energy and energy conservation bank would, in effect, be a bank with two windows—one for solar, one for conservation. Its purposes are quite direct and confined. They are to hasten the development and utilization of solar energy by making it possible for homeowners and others to purchase and install solar equipment, and to put into place as quickly as possible those conservation improvements which will save energy, especially oil.

If there are any who would say that this is another agency within an agency within an already overblown bureaucracy, I would point out that the solar and conservation programs would be accomplished with very little governmental involvement. The bank would not make direct loans, but would, instead, be authorized to make payments to local financial institutions willing to provide below-market rate loans, or a principal reduction on loans, for solar and conservation improvements. The personnel and the techniques necessary to accomplish these purposes are already in place within the Department of Housing and Urban Development and as I indicated the innovative approach of the solar bank is to use private institutions and private capital to achieve our goals. Another beauty of the program, especially as it pertains to solar, is that it uses the best of our free market system, with only a modest nudge by the Federal Government. It creates, in effect, a demand for solar products, the purchase of which has been restrained by the high initial investment. At the same time, it creates a market for solar energy products which already are developed or well within the state of the art.

In doing this, Mr. Speaker, the concept calls forth the genius of our system to produce new and exciting products. It creates jobs, conserves petroleum, and hastens the development and full utilization of a source of energy that is inexhaustible, clean, safe, and efficient.

And so I would say to the cosponsors and other supporters of H.R. 805 that we can, with considerable pride, endorse and support title V of this conference report. At one time, we were much concerned that the solar bank bill would become overburdened with bureaucratic requirements. I am pleased to say that reason has prevailed, and that those entanglements have not been inflicted upon the bank. For this, we owe thanks to the committees and subcommittees which handled H.R. 605, and the conference committee which brings us this perfected version.

I urge adoption of the conference report.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. Murphy).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

(Mr. Murphy of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. MURPHY of Pennsylvania. Mr. Speaker, I would like to join my distinguished colleagues not with reluctance, but with enthusiasm in speaking in strong support of the Defense Production Act amendments, more popularly known as the Synfuels Act. For too long now our Nation has been subject to the whims of foreign powers in both the supply and price of oil. We have witnessed the economic damage and disruption to the personal lives of our citizens and especially to the personal incomes of the working men and women in this country.

In a time when the prefix "petro" has been attached to so many common words, such as "petrodollars" and the slang "petrobucks," we should add one more to our vocabulary—"petroimperialism." Our dependence on foreign oil has made us victim to the economic and energy-oriented imperialism of oil-producing nations that have sought to influence our internal affairs by controlling the price and flow of their oil to this and free world countries. With the passage of this bill we can now put those "petroimperialists" on notice that the United States will no longer allow itself to be subject to their whims, fancies, and autocratic control.

As a Member of Congress from coal country it would be easy for me to fall prey to concentrating solely on our Nation's greatest single energy reserve as the only source of energy upon which to declare our independence. And while I do so strongly believe that coal is the backbone of that newfound independence, I will be among the first to take the larger view and to encourage the full development of all our great resources. This bill provides us with the opportunity to develop a coordinated program of energy development that will utilize not only our massive coal reserves, but solar, geothermal, biomass and wind energies to mention only a few of the numerous options available to us in the lexicon of domestic American energy sources.

Less than 4 years ago I first stood in these Chamber as one of the committee members privileged to have contributed to the first comprehensive National Energy Act in our Nation's history. I was then, and still am, proud of that opportunity to join so many distinguished senior colleagues in that first effort. The approval of this conference

report before us now is the logical extension of those efforts of the past 3 years.

Through the final approval of this legislation by both Houses of Congress and signature into law by the President, we are throwing out another challenge. It is a challenge to the industrial expertise and power that brought this country from a small collection of independent States to the most influential nation in the history of the Earth. We, as Members of a government, elected by the people, have provided the incentives for private industry to apply their human resources of intelligence, technological skills, and individual ambition to the task of answering our foreign critics, who in recent years have predicted a fading of America's greatness. With the implementation of the many programs contained in this bill we are now challenging the individual men and women who work in our factories, our fields, and our mines to put their minds, their muscles, and their spirits to providing us with practical answers to the energy problems that have plagued us in recent years. We likewise challenge the managers and executives of those companies both large and small to dedicate themselves to the same task. This is a realistic challenge with no naive notion that the answers will come overnight, but it is a beginning that if pursued diligently will see a mobilization of effort never seen before.

Many of us here can still remember the massive and concerted effort at the outset of World War II when America dragged itself out of a devastating depression to launch the greatest industrial effort in history. Despite the doomsayers around us, we now have the opportunity to produce out way out of recessionary times and declare our independence from the economic constraints imposed on us by foreign powers. This program is not the single answer, but it is the first major step in achieving those goals. I urge you all to send this message to our President and to the world and then build on this foundation in the coming years.

Mr. FUQUA. Mr. Speaker, I now yield 1 minute to the distinguished gentleman from New York (Mr. Ottinger), one of the conferees.

The SPEAKER pro tempore. Without objection, the gentleman from New York (Mr. Ottinger) is recognized.

There was no objection.

(Mr. Ottinger asked and was given permission to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, I would like to thank my chairman, the gentleman from Florida (Mr. Fuqua), for yielding this time to me.

I congratulate the gentleman from Florida and the gentleman from Pennsylvania (Mr. Moorhead), as well as the gentleman from Ohio (Mr. Ashley) and my other good chairman and friend, the gentleman from Michigan (Mr. Dingell), for the hard work they did on this legislation.

Mr. Speaker, while I have grave reservations about some of the provisions of S. 932, I nonetheless rise to support it. As with so many of the measures we consider, there are provisions which I feel are both good and bad, and it is frequently a difficult decision whether to support a measure despite its bad provisions or oppose it despite the merits of certain parts.

I am supporting the bill because it provides funding for conservation, solar and biomass efforts that I consider essential to resolving our energy crisis—and because I feel so very strongly that eliminating our heavy dependence on imported oil is the paramount need of the Nation, essential to our survival both economically and from national security and foreign policy standpoints. The legislation will permit us to make substantial progress in addressing these most critical of needs.

Unfortunately, the bill is being oversold by its promoters and the administration. The bill does not provide the national energy policy our country so badly needs to become reasonably energy independent. There are no quotas on oil imports to assure that we reduce our dependence on foreign oil. There are no provisions for establishing a government purchasing agency for oil imports that could better deal with OPEC in making national oil purchases, leaving this vital function to the international oil companies that stand to gain more than a billion dollars for every dollar increase in the price of a barrel of imported oil.

There is no provision leading to cooperation among our allies for an oil consumers cartel that would be able to bargain most effectively with OPEC on both price and production. Most importantly, there is no well-designed plan of conservation and production of alternative fuels demonstrating year by year the progress to be achieved in gaining independence calibrated to the measures to be taken to make those achievements. What the bill does is to throw a huge amount of money at many possible solutions, good and bad, in the hope that progress toward independence will result. That simply is not good enough.

The bill as it emerges from conference has an extraordinary potpourri of provisions to encourage energy conservation and production. In addition to the highly publicized and dubious synthetic fuels corporation, the legislation includes important measures to advance conservation and solar energy through use of utility financing and arrangements for installation of insulation and solar devices, the solar and conservation banks so many of us have advocated for many years, substantial biomass and alcohol fuels authorization, waste to energy promotion, eligibility of hydrogen production for support under the synthetic fuels corporation and other important energy advances.

On the negative side, however, the bill provides far too much money, on an unreasonably accelerated basis and without adequate controls, for commercial production of synthetic fuels. The subcommittee I chair on the Science and Technology Committee authorizes all the research and development of synthetic fuels.

Earlier this year we established a Synthetic Fuels Task Force chaired by Gerald Decker of Kaiser Aluminum Corp. and composed of leading experts from all over the country, to evaluate the various synthetic fuels technologies and their readiness for commercial production.

It is clear from the many hours of testimony we received from administration experts, industry technologists, and from the report of the task force and field visits of the committee to many of the synthetic fuels projects, that the prime object of the synthetic fuels corporation, namely oil from shale or coal, is still in the experimental stage in this country. These projects are fraught with problems of economic and

safe extraction and production, as well as very serious unresolved environmental problems and problems of severe community disruption in relatively uninhabited regions of the country where many of the resources are located.

While I have been a strong supporter of accelerated research on synthetic fuels and believe that we should push the technology to the point of putting up demonstration plants in each of the major technologies so that we have the capability at hand to produce these fuels at a time when they may be needed, I think it is foolhardy and a waste of the taxpayer's money to rush into commercial production of these fuels with an \$88 billion commitment, of which \$20 billion is authorized in this bill.

I do not even think the synthetic fuels goals enunciated in the bill will become a reality despite throwing this immense amount of money at them. Many of the companies promoting synthetic fuels are responsible enough to have indicated to the committee that they simply will not commit major resources to building commercial size plants for technologies in which they do not yet have confidence, for which there is no market at presently projected prices, and for which there is no adequate resolution of the environmental problems and hazards associated with their production.

I only hope that the directors appointed to direct the Synthetic Fuels Corporation will be sensible enough not to try to force the production of inadequate or unsafe technologies or to overlook the resolution of the environmental and community problems imposed. If soundly administered, the Corporation could provide us with many of the answers so urgently needed on future production of synthetics.

I am particularly pleased with the title V provisions on utility participation in energy conservation and solar energy. Although the House never passed legislation comparable to titles V and IX of the Senate bill, the Commerce and Banking Committees did report out roughly comparable bills. Those bills closely resembled legislation I introduced last September, together with Chairmen Staggers and Dingell. That legislation, H.R. 5493, The Conservation and Renewable Energy Resource Act, contained amendments to the National Energy Conservation Policy Act to permit utilities to undertake energy conservation and solar energy programs, subject to restraints against unfair anticompetitive practices.

This is a most significant advance in the conservation and solar area. The need for aggressive conservation activity by utilities has become daily clearer. That evidence is best summarized by the testimony of S. David Freeman, Chairman of the Tennessee Valley Authority, the Nation's leading utility in the conservation and solar field, before the Energy and Power Subcommittee last fall. I would like to quote at length from his testimony:

I am convinced of the need for a strong and effective utility role in conservation for the benefit of the consumer. Whether we like them or not, the utilities reach just about every building in the country and provide the best potential delivery system for conservation measures that is currently available.

Insulating and weatherizing all the Nation's existing homes and buildings is a massive job, and it requires more than tax credits. It requires a comprehensive delivery system that must include direct personal contact with the homeowner, front-end financing, and postinstallation inspections for quality control. All of

these features are necessary to overcome the substantial financial, procedural, informational, and indifference barriers each consumer faces.

The utilities offer the best bet to get the job done for a number of reasons. They reach every home; they have knowledge about the subject matter; they have a positive financial stake in promoting conservation because it can eliminate the need for expensive new capacity; and they can provide a one-step shopping center for consumers interested in conservation measures, and as legislation demonstrates, they are subject to regulation at the local level that can be fashioned to assure that the program is carried out in a fair and reasonable manner.

I am very much aware that utilities are not universally loved to say the least, and that there is genuine concern that utility organizations might use their monopoly power unfairly to compete with companies offering weatherization service. Even so, I believe experience has shown that the Nation cannot afford to pass up the opportunity that utilities offer under proper safeguards as this legislation provides to give our lagging conservation effort a real shot in the arm, and that is what it needs.

I think equally important is the changed attitude of many utilities, as compared to a couple of years ago when they shunned the conservation effort. The utility organizations today find themselves in a difficult position. They are faced with a growth in demand for energy services and their options for supplying the demand are severely restricted. The marginal cost of new capacity for this capital-intensive industry has made conservation seem less of a threat and more of a promise of financial salvation.

The serious cost crunch has forced some members of the industry to rethink their role. It is of historical interest, I think, that Thomas Edison thought the industry should sell light and not just kilowatt hours, because no one uses electricity for its own sake.

The industry went the other way, but perhaps it is time to get back to the ideas of Edison. Because once you cross the mental hurdle of thinking beyond the bus bar, conservation, solar energy and other decentralized energy systems offer utilities a cost-effective option, much more cost effective in most instances than increasingly expensive centralized generating plants.

This is not just talk as far as I am concerned. We have applied this thinking in the TVA system and we have conservation and solar programs that are working. TVA is showing that we can, as a matter of fact, provide for a substantial portion of new capacity that would otherwise be needed by instead installing insulation, storm windows, wood heaters, and solar water heaters, and, most importantly, we are developing the facts that show this equivalent capacity can be obtained much more cheaply than comparable central station powerplants.

Indeed TVA has learned that the cost of energy saved through conservation is \$200 per kilowatt of capacity deferred in contrast with \$1,200 per kilowatt for a new nuclear generating station.

There has always been concern about the potential for utilities stifling competition if they are permitted to embark on other activities than supplying electricity or gas. That concern is one I share. After all, utilities are franchised monopolies, and their behavior in the past, particularly in selling appliances to increase their load, has often been far from exemplary.

However, I am convinced that this legislation contains adequate protection against anticompetitive practices. First, the suppliers and installers of energy conservation measures financed by utility contracts would have to be drawn from State lists of qualified contractors. This is required in the residential conservation service program, so utilities would not have control over contractors. Second, the Secretary of Energy is required to monitor utility programs explicitly to seek out cases of unfair rates or unfair methods of competition. In doing this, the Secretary must consult with the Federal Trade Commission, and must report annually to the Congress. And, in the event that utility programs result in unfair rates of anticompetitive practices, the Secretary may order the programs terminated.

What we have done, in this legislation, is to restore to the States the powers we usurped from them 2 years ago in the National Energy Act—to let them allow their utilities, or require their utilities, to embark on energy conservation and solar energy programs, but in so doing build in strong protections for competition. These provisions will permit utilities to both finance and make arrangements for installation of insulation and solar devices, overcoming principal barriers to our Nation's critically needed progress in these areas. This may well be the most important part of this legislation for achieving energy independence.

Turning for a moment to several other provisions of S. 932, I am also pleased with the commitment that has been made to developing our biomass resources, in particular alcohol fuels, and municipal waste for energy. Title II of this legislation establishes a major new effort on the Federal part to spur private investment in alcohol fuels production as well as in our virtually untapped resource of municipal solid waste.

The Department of Energy will now have an Office of Alcohol Fuels and an authorization of \$500 million to pursue the goal of displacing at least 10 percent of our gasoline consumption by the year 1990. Earlier this year, I had the opportunity to visit Brazil with my subcommittee and see first hand the progress that country is making in utilizing alcohol fuels in mitigating their dependence on foreign imports. Their progress has been impressive and it is now time for this country also to utilize to the fullest extent possible similar resources. To do so, it will be necessary for us to continue important biomass research and development efforts to find new processes for producing alcohol fuels more efficiently and at less cost. The additional \$100 million provided by S. 932 in authorizations will assist in that effort by promoting ongoing programs within the Department as well as allowing for new initiatives.

Subpart B of title II is addressed specifically to the use of municipal waste to recover energy and energy-intensive products. As our existing landfills approach their capacity, we have an opportunity to implement a process to extract valuable energy and at the same time avoid major environmental or economic problems caused by our accumulation of wastes. We could save the equivalent of 270 million barrels of petroleum per year and thus reduce the demand for foreign oil by over \$6 billion if all municipal solid waste and sewage sludge available in this country were processed in modern waste-to-energy systems. However, we are just now beginning to take advantage of this technology.

The municipal waste-to-energy provisions of this bill were taken in part from legislation that my Energy Development and Applications Subcommittee developed over the past year. The bill will provide new economic incentives for the private sector to invest in municipal waste-to-energy systems, as well as accelerated research, development and demonstration efforts to improve the reliability and efficiency of these processes. The Department of Energy was authorized \$250 million for this effort and directed to establish a new municipal waste-to-energy office to implement these provisions with minimal disruption of their existing program. Clearly, these efforts will raise the visibility of this important effort in the Department.

In sum, I am particularly pleased with the utility provisions and the Solar Energy Conservation title of S. 932, and I feel that despite the grossly excessive synthetic fuels provisions, the bill is worthy of support. The conference on S. 932 has been a long one, and in many cases a trying one, and as I close I would like to add my particular commendations to the staff members of the many committees who devoted so many hours to this legislation.

The **SPEAKER** pro tempore. The time of the gentleman from New York (Mr. Ottinger) has expired.

Mr. **FUQUA**. Mr. Speaker, I yield back the remainder of my time.

Mr. **MOORHEAD** of Pennsylvania. Mr. Speaker, I now yield 20 minutes to the distinguished chairman of the Subcommittee on Energy and Power, the gentleman from Michigan (Mr. Dingell).

Mr. **DINGELL**. Mr. Speaker, I thank my good friend and colleague, the gentleman from Pennsylvania (Mr. Moorhead), for yielding this time to me, and I yield myself 3 minutes.

(Mr. Dingell asked and was given permission to revise and extend his remarks.)

Mr. **DINGELL**. Mr. Speaker, I rise in support of the conference report on S. 932, the Energy Security Act.

S. 932 is a significant act not simply because it establishes a major program to develop synthetic fuels, but more importantly, because it is a comprehensive piece of legislation which represents a firm commitment on the part of this Nation to develop a variety of alternative energy sources and technologies, and because it also represents the determination of this Congress to insure our energy security by providing a mechanism for filling our strategic petroleum reserve.

This is the first legislation to emerge from Congress which provides significant financial assistance, totaling \$2.5 billion over the next 4 years for a conservation loan program, and \$525 million for a solar loan program, thereby finally giving recognition to the important contribution these sources can provide in meeting our energy needs. The bill authorizes \$1.2 billion over the next 2 years for converting biomass to alcohol fuels, and \$250 million for converting municipal waste to energy. It also provides \$85 million over the next 4 years for geothermal energy, and extends the \$100 million authorization for a feasibility loan program for hydropower. It establishes a \$10 million demonstration loan program for renewable energy sources, and authorizes a 10-year study on acid rain, and a 3-year study on the effects of carbon dioxide in the atmosphere.

As will be stated often today, but it is worth repeating, the conference on S. 932 has been long and difficult, and the complexity of the conference has been compounded not simply by the enormous scope of the Senate bill, but also by the fact that it contained provisions which had not been considered by the House during its deliberations of this legislation. Thus, in many areas, before the conferees could resolve the differences in the positions of their respective chambers, the House conferees were first required to establish a House position. The product of the conference is 398 pages longer than the bill which passed the House, and 70 pages longer than the bill which passed the Senate. The index alone is seven pages long which is half as long as the bill which initially passed the House.

Establishing a House position and then resolving the differences between that position and the Senate bill required unique skills, and it was primarily through the perseverance of the conference chairman, Mr. Moorhead of Pennsylvania, and the persistence of the majority leader, Mr. Wright of Texas, that the House was not only able to act but also to prevail on so many issues.

The legislation which has emerged from this conference is clearly superior to the bill which passed the Senate. While much of the credit for this belongs to the retiring gentleman from Pennsylvania (Mr. Moorhead), and our distinguished majority leader, Mr. Wright, it should not go unnoticed that significant substantive improvements resulted from the direct participation of those Members who serve on the committees who have primary responsibility for the various and diverse matters which are contained in this bill. It is significant that one of the side benefits of this conference has been to demonstrate that those committees which have jurisdiction over energy-related matters cannot only work together, but can do so in a manner which effectively utilizes their experience.

The result is all affected interests are represented and the quality of the product is thereby substantially improved. I submit that the high quality of this legislation would not have achieved the level it has if the House had been represented by a single committee on energy. The title establishing the solar and conservation bank was improved because the Banking Committee and the Commerce Committee were in conference together. The quality of the bioenergy title was improved because of the active involvement of the Committees on Agriculture, Science and Technology and Commerce. The title on synthetic fuels was significantly improved because of the involvement of all the participating committees; and so this conference is important not simply because of the significance of the legislation it has produced, but also it is a clear demonstration of the ability of the existing committees to work together. It serves as an example of the benefits of maintaining the existing jurisdiction responsibilities of the House committees.

This conference was indeed a joint effort, and while all of the members of the conference should be commended for their dedication and effort, and while recognition should be given to the conference chairman and the majority leader, special recognition should be given to the distinguished chairman from the Agriculture Committee, the gentleman from Washington (Mr. Foley); the chairman of the Science and Technology Committee, the gentleman from Florida (Mr. Fuqua); the chairman of the Banking Committee, the gentleman from Wisconsin (Mr. Reuss); the ranking majority member of the Banking Committee, the gentleman from Ohio (Mr. Ashley); and the chairman of the Interstate and Foreign Commerce Committee, the gentleman from West Virginia (Mr. Staggers), for their individual and important contributions to this conference.

Moreover, recognition should be given to the efforts of the staffs of all the committees involved, who were untiring in their efforts to resolve differences not only among the committees but between the chambers. I know that the Commerce Committee devoted more than 3,500 staff hours to this conference, and prior to the last meeting, all the staffs worked for 20 days straight, oftentimes from 9 in the morning

until midnight to produce the final version of the bill and the statement of managers.

Given that most of them sacrificed their Christmas vacation, the Easter recess, and the Memorial Day recess to work on this bill, they and their families deserve more than the traditional comments of gratitude given them on such occasions; and so I want to extend my personal thanks to Dick Olson of the majority leader's staff, Jack Lew of the Steering and Policy Committee; Ike Webber, Norm Cornish, Ruth Wallick, Dave Kiernan, Graham Northup, Roger Faxon, Diane Dorius, and Patti Lord from the Banking Committee; Gary Norton and Bob Bor from the Agriculture Committee; Rob Ketcham and Jack Dugan from the Science Committee; and Mike Barrett, Andy Athy, Nancy Mathews, Frank Potter, Dave Schooler, Mike Kitzmiller, Dave Finnegan, Mike Woo, Randy Davis, Steve Bienstock, Mark Whiten-ton, Mike Boland, and Mike Ward from the Commerce Committee and any others I may have missed for their efforts.

And there should be special thanks to one person in particular, who worked long hours at the laborious task of producing all of the thousands of documents on the House side in the conference, frequently on short notice, and who in very difficult and demanding circumstances always maintained her composure and performed in an efficient and professional manner, and that person is Liz Cingel of the Commerce Committee staff.

Special mention should also be made of the staff of Legislative Counsel, and in particular Paul Smith, Lee Peckarsky, Carl Tibbetts, Pope Barrow, Joe Womack, Larry Filson, Marianne Gscheidle, and the support staff for their contributions and long hours toward improving and perfecting this bill.

Because of the combined efforts of the members and the staff, the House was able to make a number of substantial improvements in this legislation. One of the more important improvements was in regard to the strategic petroleum reserve.

For the first time since we stopped buying oil for the strategic petroleum reserve in 1978, we have a mechanism to see that oil fill resumes. The Senate bill would have directed the President to commence filling the SPR at the rate of 100,000 barrels per day. There was, however, no means of compelling this fill if the President chose not to do so. To correct this problem, the House conferees proposed that unless the minimum fill suggested by the Senate was being sustained, oil production from the Elk Hills Naval Petroleum Reserve would be transferred to the SPR.

The conferees also gave the Department a number of tools to expedite the purchase or exchange of oil for the reserve at the lowest cost to the taxpayer. The Department may use the entitlements program to buy the least expensive oil, and it is also directed to make maximum use of the royalty oil now being sold by the government to the oil companies.

Another improvement was in the establishment of a municipal waste program. The Senate bill authorized up to one billion dollars to be spent on biomass energy, but it did not deal with the energy potential in urban waste. The House conferees proposed and the Senate conferees agreed that a major effort within the biomass program

should be directed toward utilizing the energy in urban waste which is now being lost. The Department will have 4 years and \$250 million for waste energy. This new direction for the waste energy programs of the Department will be a major achievement.

I am particularly pleased with the conservation and solar provisions contained in title V. Together with provisions in existing law, we have built a comprehensive national program to further energy conservation and the use of solar energy in our buildings and homes.

The conference report establishes a solar energy and energy conservation bank, which will provide federally subsidized loans for investments in energy conservation and solar energy systems and, in certain instances, will provide grants for conservation improvements in the homes of low-income individuals. In addition, we have made some changes in the low-income weatherization program to make that effort move more quickly; assistance to low income groups is essential, not only to assist them in saving the Nation's energy, but also to help them reduce their energy costs.

Title V also removes restrictions, contained in the National Energy Conservation Policy Act passed by the last Congress, so that utilities will now be able to undertake solar and conservation programs. Though I was reluctant in the past to permit utilities expand into nontraditional areas, because of a history of anticompetitive practices, I am now of the view that their participation can greatly aid our national conservation effort.

I firmly believe that the protections we have built into this act will hold anticompetitive practices at a minimum; indeed, the Secretary of Energy may order a utility program terminated, if it is determined by the Secretary in consultation with the Federal Trade Commission, that unfair rates or anticompetitive practices are resulting. The advantages of utility involvement are that they enjoy a unique relationship with owners and tenants of virtually all our buildings, and that investments in conservation and solar energy can help to avoid constructing costly new generating facilities or diminish fuel use and, thus, save all their customers money in the process.

I believe the provisions of title V will add significantly to the programs we in Congress have already enacted, and I praise my fellow conferees for their patience and thoughtfulness in the preparation of this part of the conference report.

In regard to bioenergy, the House conferees proposed a number of significant improvements which have been incorporated into this legislation. In authorizing \$1.2 billion over the next 2 years for alcohol fuels, we have created a program which provides for the most economical and practicable means for significantly increasing domestic energy production in a short term. Most importantly, by establishing a coordinating program which provides for an equitable and logical distribution of responsibilities between the Departments of Agriculture and Energy, we have insured that significant quantities of alcohol fuel will be produced in a manner which does not adversely affect food prices of supplies. Moreover, we have eliminated from the Senate bill numerous provisions which would have established programs within the Department of Agriculture which would have duplicated existing programs within the Department of Energy.

Title VI makes certain amendments to the Federal Power Act and the Public Utility Regulatory Policies Act in order to facilitate geothermal small power production. In particular the provisions of section 648 represent a significant extension of the scope of sections 201 and 210 of PURPA, as they apply to geothermal small power production facilities. Existing law directs the Federal Energy Regulatory Commission to encourage certain nonutility-owned cogeneration and small power production—including geothermal—by requiring utilities to purchase power from, and to sell power to, such facilities at rates set under the Commission's regulations, and by authorizing the Commission to exempt such facilities from State and Federal utility regulations.

The conference report expands the Commission's authority under these sections of PURPA by directing the Commission to encourage utility, as well as nonutility, geothermal small power production not in excess of 80 megawatts capacity. The Commission may exercise its discretion under section 210 to exempt such facilities from State and Federal utility regulations. The amendment does not specifically authorize the Commission to make the rate benefits of section 210(a) of PURPA available to such utility-owned facilities; however, under its broad authority to encourage geothermal small power productions, the Commission could choose to make some, or all, of the section 210 rate benefits applicable to such facilities in the same manner as such benefits are available to nonutility-owned facilities.

Title III of the legislation is entitled "Energy Targets." The conference agreement is a modified version of the energy targets provisions passed by the Senate. The House had no comparable provision.

The purpose of the energy targets title is to establish a procedure whereby the executive branch and the Congress are able to consider our energy future. During the first week in February in 1981 and every second year thereafter, the President is required to transmit to the Congress energy targets for calendar years 1985, 1995, and 2000. The energy targets will be numbers representing net imports, domestic production, and end-use consumption of energy. The numbers will be broken down by fuel type. During February of even-numbered years, that is, February of the second session of each Congress, the President must transmit to the Congress reports concerning the energy targets transmitted during the preceding year.

Special rules are established relating to the congressional consideration of energy targets during the 97th and 98th Congresses. The energy targets established in 1981 and 1983 must be transmitted as a special title attached to the Department of Energy authorization bills for fiscal years 1982 and 1984, respectively. This will permit the appropriate committees of the Congress to consider the targets during their consideration of the Department of Energy authorization legislation. During those two Congresses, it will be in order during the consideration of the legislation, both in committee and on the House or Senate floor, to make amendments to the title on energy targets, so long as the amendments maintain mathematical consistency among the numbers. It would also be in order to either add or strike a title containing energy targets.

A special rule applies only in 1981. If on, or before, May 15, 1981, no committee in either the House or the Senate has reported the Department of Energy authorization bill with a title including energy targets, it would be in order to introduce a joint resolution containing such targets which would be immediately referred to the appropriate authorizing committees.

If the appropriate authorizing committees have failed to report the joint resolution on, or before, July 15, 1981, it would be in order for a period of 20 calendar days following July 15 to move to discharge the committees from further consideration. These expedited procedures for floor consideration would be similar to those contained in the Energy Policy and Conservation Act, except that debate on the joint resolution would be limited to not more than 3 hours. The only amendments which would be permitted to the joint resolution are amendments which change the numbers contained in the resolution, so long as the amendment maintained mathematical consistency.

Although the Department of Energy authorization bills may contain a title setting forth energy targets, the question of germaneness to the authorization bill must be determined as if the title contained in the targets were not in the bill.

The title contains a format for the transmission of energy targets. The format is designed so that one can look at the total supply, which would consist of domestic production and net imports, and the total consumption, which would consist of end-use consumption and conversion loss. Each category, such as domestic production, is broken down by fuel types.

The energy targets which will be established pursuant to this title will be considered as an expression of national goals, and will not be considered to have any legal force or effect.

In the Acid Rain title, we were able to enfold the President's Acid Precipitation Coordination Committee into the statutorily established Acid Precipitation Task Force, thus avoiding the delay and duplication which would have resulted had the Senate bill passed as drafted.

The House conferees were also responsible for substantial reductions in the amounts authorized under this bill. The Senate bill authorized over \$95 billion while the conference agreement provides an authorization of just under \$25 billion over the next 4 years.

At a time when there is increased concern over Federal expenditures, a reduction of this magnitude is not simply an exercise of physical responsibility, but more importantly, a means for assuring that alternative sources of energy are developed in an orderly fashion which maximizes production and minimizes waste. This is most important in regard to title I, for it avoids the crash program envisioned by the Senate by authorizing the Corporation to seek additional funding on an incremental basis thereby enabling the industry to evolve in an orderly and technically sound manner. This will enable industry to develop a portfolio of synthetic fuel technologies that range across the spectrum in terms of technological risk, scale, location and types of raw materials so that by the time additional funds are sought, our learning in this area will be greatly accelerated.

With this more modest but more realistic strategy, we will maintain a needed degree of freedom and be more efficient in dealing with our

energy problems by maintaining choices involving synthetic fuels. More importantly, by requesting funds on an incremental basis, this change affords the Congress an opportunity to periodically review the operations of the Corporations, thereby assuring effective and full congressional oversight of the activities authorized by this Act.

The most extensive changes have occurred in title I. Although the structure of the Senate bill has been retained, the conferees have either rewritten or substantially altered every subtitle and virtually every section. The conference agreement is substantially different from the bill which passed the Senate, and it is regrettable that, on a bill of such importance, there is little legislative history fully documenting the changes which have occurred to adequately reflect the work of the conferees in incorporating the views of the House.

We have removed cabinet officials from the Board of Directors in order to increase its independence from the administration. We have also increased the membership of the Board and allowed some members of the Board to serve in a part-time capacity so that the Board may include those from the financial community and the industry with the needed expertise without requiring them to forgo the awards available to them in the private sector.

We have also insured that all views of the Board will be heard by requiring, in section 116(e), that any action of the Board must be by a majority vote of all members of the Board, meaning that no action shall be effective unless it has the support and vote of at least four members of the Board. We have also guarded against interim or recess appointments to the Board by requiring, in section 116(b), that the Board consist only of those who have been appointed by the President by and with the advice and consent of the Senate. We have restricted the President's authority to remove directors by limiting the grounds for removal for only neglect of duty and malfeasance in office.

We have included a strong provision in section 131(r) to insure that any financial assistance provided by the Corporation not compete with or supplant any private investment capital, meaning that the Corporation is fundamentally a last resort, providing assistance only to those worthwhile projects which because of the enormous startup costs would not be undertaken without the assistance provided by the Corporation.

We have placed controls on the obligational authority of the Corporation by strictly limiting it to the amounts authorized, and prohibiting it from selling any of its notes or other forms of financial indebtedness to the Federal Financing Bank, thereby preventing it from rolling over its funds. Additionally, once an agreement is signed, the amounts specified in the agreement are then set aside and can never again be used for any other purpose even though these funds may ever actually be expended. For example, if the Corporation provides a loan guarantee of \$2 billion, and then at the initiation of production, the recipient of the guarantee wishes to terminate the guarantee, that \$2 billion can never be used for any other purpose. If the recipient wishes to obtain another form of financial assistance, such as a price support, then the extent of that assistance will be limited by the requirements of section 131(j)(1), and the funds for such assistance must be drawn from the unobligated balances available to the Corpora-

tion in the Energy Security Reserve established in section 195 (B) and accounted for in accordance with the provisions in section 152 (b).

A major failure in the Senate bill was the total absence of congressional control and oversight over the Corporation. The House conferees recognized this and insisted upon creating an Inspector General responsible for monitoring the Corporation's activities and answerable directly to the Congress. This, perhaps more than any other legislative safeguard, will protect the taxpayer against fraud and inefficiency. I know our committee intends to use the Inspector General as a major part of our continuous legislative oversight of the Corporation.

Perhaps the most important change in title I occurred at the final meeting of the conference, when, as their last act, on a motion by the Senate, the conferees agreed to a fundamental change in the legal status of the Corporation which substantially and materially altered the entire complexion of this part of the act.

During this entire conference, there have been questions about the legal status of the Corporation. The Senate argued that, in establishing this Corporation, the Congress was merely exercising its power of incorporation, and that the Synthetic Fuels Corporation was fundamentally a non-Government corporation, having the same legal status as, for example, the Union Pacific Railroad, which was similarly incorporated by an act of Congress in 1862. Thus, the Corporation's authorities would be defined by the statute, but its activities would be governed by those laws, unless the Corporation was specifically exempted from the applicability of such laws in the organic act, which apply to a privately owned corporation. Under section 175 (g), the Corporation was not even given the status of a Federal instrumentality which was a status conferred by the courts upon the railroad companies incorporated under prior acts of Congress. The Senate's purpose was to remove the operation of the Synthetic Fuels Corporation from the legal restraints placed upon traditional Government agencies.

The Synthetic Fuels Corporation, however, was clearly distinguishable from the Union Pacific Railroad, in that its Board of Directors would be composed entirely of Presidential appointees, and it would be authorized to dispense Federal funds in a discretionary manner. This theory raises many legal questions. If this were a non-Government corporation, it would be subject to a court challenge to determine whether tax revenues could be transferred to a private corporation to be spent in a discretionary manner, and as to whether such acts constituted an appropriate expenditure of general revenues within the public purposes requirement of the Constitution.

There were many other questions such as the liability of the directors and as to whether they owed a fiduciary duty to the Corporation. The applicability of corporate law was unclear, and thus the real possibility of a director's derivative suit existed. The tax status of the Corporation was unclear. In short, the legal status of the Corporation was so vague that there was a clear possibility of endless litigation which would have inhibited the Corporation from acting and thereby undermine its ability to achieve the purposes of this Act.

For 8 months, the Senate insisted upon its position. As a result, the bill was initially drafted on the assumption that this was merely an act of incorporation, establishing a nongovernmental entity. This

was a fundamental theory which guided the entire drafting of this part of the legislation.

Then, as the last act of the final meeting of the conferees, the Senate offered eight amendments usually of just one or two words, which had the intended effect of fundamentally altering the legal status of this Corporation, by transforming it from a non-Government entity into a Federal agency. This action was in direct opposition to the fundamental principles upon which the bill was drafted, and did severe damage to the structural integrity of the bill. By making limited changes, these amendments clearly established the overriding principle that the Synthetic Fuels Corporation is a Federal agency. But because these amendments represent a last-minute change by the Senate and were drafted in haste, they create ambiguity because they are incompatible with other portions of the bill, portions which should have been removed or rewritten to conform the bill with what is to be its new legal status.

As the principal advocate of the position that the Corporation should be a Federal agency, I applaud the fact that the Senate finally receded on this point. However, I am concerned about the potentially serious consequences which may result from the manner by which this was accomplished in that the resulting ambiguity is an invitation to litigation which could severely curtail the operations of this Corporation. In interpreting laws, there is a presumption against inconsistencies, but I believe the courts will be hard pressed to resolve the inconsistencies between these amendments and certain provisions of this Act, such as sections 143, 155, 175, and 178. It is regrettable that in order to finalize this legislation and initiate this important program, the conferees were not afforded sufficient opportunity to evaluate the potential impact of this change and make the necessary and conforming amendments.

It is regrettable that the statement of managers is simply a section-by-section analysis of the bill rather than a clear explanation of the intent of the conferees. As I am certain that the courts will be called upon to review portions of this bill, I believe it important that the intent of the conferees in establishing a Federal agency be clear and such that such intent take precedence as a final act of the conference over any provision in the act which seemingly is incompatible with that intent.

As an agency, the Synthetic Fuels Corporation is clearly an instrumentality of the Federal Government. The courts in numerous decisions such as *California v. Central Pacific Railroad Company*, 127 U.S. 1 (1887) have long recognized the unique status of Federal instrumentalities and, on occasion, have even extended its applicability to private corporations acting on behalf of the Federal Government.

However, section 175(g) would seem to deny the Corporation the protection and advantages normally afforded Federal instrumentalities, and thereby jeopardize the ability of the Corporation to achieve its objectives by subjecting it to a variety of State laws. Yet, such an interpretation would clearly be contrary to the intention of the conferees.

The fundamental objective of establishing an agency in the form of corporation was to free it from the normal restraints applicable to

Federal agencies and not in turn subject it to a myriad of restrictive State laws. The Synthetic Fuels Corporation is a Federal instrumentality, and, as such, is entitled to the benefits which would be derived such a status.

Whenever the interest of the Government is sufficiently involved, the courts have disregarded the corporate form and protected those interests, and it is expected, in this instance, they would continue to do so as they have done in the past, in such cases as *Fleet Corporation v. Western Union*, 275 U.S. 415, 1928, *Stockton v. Baltimore and New York Railroad*, 32 Feb. 9 (1887), and *Pembina Mining Company v. Pennsylvania*, 125 U.S. 181 (1888).

Another area which is not explicitly addressed in this legislation concerns the Corporation's relationship to the President and the executive branch. As a private corporation, it was clear that this relationship was limited to only those acts specified in the act, because the Corporation was not a part of the executive branch. Consequently, there was no need to address this issue in the context of the legislation itself. But by transforming the Corporation into a Government agency, these amendments have now made the Synthetic Fuels Corporation a part of the executive branch. As it performs no quasi-legislative or quasi-judicial function, there is one theory which would hold that the Corporation is a part of the Executive Office of the President and that it therefore has the same status as the Reconstruction Finance Corporation.

While the statute is silent on this point, the intent of the conferees was to establish an autonomous agency. It cannot be ignored that the Senate's initial position was based on the desire to provide this Corporation with unprecedented independence, and the change in its position was caused by the legal uncertainty stemming from the lack of precedence for its position on the legality of its action and does not reflect an intention to compromise the Corporation's independence. I believe that is a fair representation of our intent to state that the Corporation was established to pursue an independent course, free from interference or direction from the administration, and that it is our firm desire that any interference in the Corporation's internal affairs such as that which rose in connection with Dixon-Yates controversy which lead to the court's decision in *Mississippi Valley Generating Company v. U.S.*, 175 F. Supp. 505 be prohibited.

In urging that the conferees establish this Corporation as a Federal agency, it was not my intention to subject it to all the laws applicable to such agencies. Rather it was my intent to draft the bill on the presumption that it was an agency, and then exempt it from those laws which would impede expeditious action such as the procedural requirements regarding procurement which was the objective of the original House bill. Although not drafted on this assumption, the change which was accepted by the Conferees is consistent with these objectives. As such, this agency would be held accountable in law to the standard announced by the Supreme Court in *Bank of the United States v. Planter's Bank of Georgia*, 9 Wheaton 904 (1824), where Chief Justice Marshall stated:

It is, we think, a sound principle, that when the government becomes a partner in any trading company, it divest itself, so far as concerns the transactions of

that company of its sovereign character, and takes that of a private citizen. . . . The government by becoming a corporator, lays down its sovereignty, so far as respects the transactions of the corporation, and exercises no power or privilege which is not derived from its charter.

This principle was later affirmed by the Supreme Court in *Sloan Shipyards Corporation v. U.S.S.B. Emergency Fleet Corporation*, 258 U.S. 549 (1922) where the court stated that even though the Fleet Corporation was an instrumentality of the government, acted as an agency of the United States, and was owned by the Government, it was nevertheless answerable for its acts and bound by its contracts and suable in a court of competent jurisdiction like any private individual or corporation.

Moreover, it should be emphasized that the Synthetic Fuels Corporation is an entity which is distinct from the Federal Government, just as a corporation is distinct from its stockholders, and the principle expressed in *U.S.S.B. Merchant Fleet Corporation v. Hardwood*, 281 U.S. 519 (1930) and later in *Lindgren v. U.S.S. B. Merchant Fleet Corporation*, 55 Fed. 2d, 177 (C.C.A. 1932) wherein it is stated that "A suit against it (U.S.S.B. Merchant Fleet Corporation) is not a suit against the United States, and that a suit against the United States is not a suit against it" is controlling and the precedent enunciated in *Ballaine v. Alaska Northern Railway Company*, 259 Fed. 183 (C.C.A. 9th) 1919 (and *Keeley v. Kerr*, 270 874 (D.C. Ore. 1921)) is rejected.

In closing, Mr. Speaker, I would like to note that there is no disagreement concerning the need for a major synthetic fuel initiative in this country, but the overall significance of this legislation rests in its commitment to develop a variety of alternative forms of energy. For this, we need to commend our counterparts in the Senate, and particularly, the distinguished Chairman of the Senate Energy Committee, Mr. Jackson, and Senator Johnston, and the ranking minority member of that committee, Senator Hatfield, and Senator Domenici, and the chairman of the Senate Agriculture Committee, Senator Talmadge, and the chairman of the Senate Banking Committee, Senator Proxmire, for their work on this bill. Additionally, the Senate staff, and in particular Dan Dreyfus, Richard Grundy, Owen Malone, Ben Cooper, Lee Wallace, Peter Smith, Jim Bruce, Ronnie Kuhn, Dave Swanson, and Chuck Trabandt deserve special recognition for their work and their contributions in improving this legislation.

On another point, several members have raised specific questions concerning the effects of title VIII of the bill relating to the strategic petroleum reserve. I believe the committee report adequately explains the intent of the conferees on this section but I might add the following points. The conferees have directed the President in section 805 of the bill to amend regulations under section 4(a) of the Emergency Petroleum Allocation Act ("EPAA") to permit the Government to purchase oil for the strategic reserve at or near the price of lower tier controlled oil. This is to be accomplished through sales of entitlements by the Government and by permitting the Government to purchase oil for the reserve without paying entitlements itself. The conferees intended this to be the principal mechanism for filling the strategic reserve and we want the President to use entitlement purchases before turning to other methods, such as transfers of federally owned oil, to fill the reserve.

Another feature of title VIII adopted by the conferees is restrictions on the sales of oil from the naval petroleum reserve at Elk Hills unless the President fills the strategic reserve at an annual average rate of 100,000 barrels a day. In particular, the act provides that Elk Hills oil can only be sold or exchanged to the strategic reserve unless the President meets the above goal. A question has been raised concerning what types or combinations of sales and exchanges are allowed to transfer Elk Hills oil to the strategic reserve should production be restricted.

First, let me say that I doubt such a condition will ever arise. Assuming, however, that the President fails to meet the required annual fill rate the act provides him with great latitude in choosing a method to transfer Elk Hills oil to the strategic reserve. This authority includes use of matching sales and purchase transactions involving either third parties, such as oil brokers, or Governmental agencies, such as the Defense Fuel Supply Center. The only requirement is that for every barrel of Elk Hills oil sold or transferred to a broker or a Government agency an equivalent barrel of oil must be delivered to the strategic reserve. We are not concerned about the mechanism of exchange. We would be concerned, however, should there be any significant delays in the delivery of oil to the strategic reserve once a sale or transfer of Elk Hills crude had been made during a time when the restrictions of title VIII applied.

Once again, it is the purpose of this act to require the President to begin filling the strategic reserve. We have given him entitlement authority to assist in that effort and we have provided the further incentive of restricting Elk Hills sales unless he responds to the requirements of the act on this issue.

Mr. Speaker, I reserve the balance of my time.

Mr. McKINNEY. Mr. Speaker, I yield 20 minutes to the ranking minority member of the Subcommittee on Energy and Power, the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 10 minutes.

(Mr. Brown of Ohio asked and was given permission to revise and extend his remarks.)

Mr. Brown of Ohio. Mr. Speaker, I must reluctantly rise in strong opposition to the conference report on S. 932. I use the word "reluctantly" because I have long been a strong supporter of legislation providing for governmental assistance to develop synthetic fuels. In 1976, I supported H.R. 12112 which never received full floor consideration because the rule making it in order was defeated by one vote.

Last June I joined in active support of the Moorhead bill which has now been emasculated and swallowed up by this conference. But as an active supporter of synthetic fuel development I must tell you that the conference on S. 932 was the most disappointing one in which I have participated in my 15 years in Congress. This legislation can charitably be described as a lengthy collection of nonsensical, expensive, unworkable so-called energy initiatives. The conferees on this bill took a 14-page House bill designed to stimulate private industry through \$3 billion of purchase agreements, Federal loans, and Federal loan guarantees, and made it into a 412-page legislative Christmas tree consisting of 8 titles. Only a small portion of one of those titles received any previous legislative consideration in the House.

S. 933—ENERGY SECURITY ACT**BREAKDOWN BY TITLE**

Title I. Synfuels, House version, \$3 billion.
Project financing, \$20 billion.
Future financing, up to \$68 billion.*
Administrative expenses, \$35 million per year, increased each year by GNP deflator (at least \$420 million).
Studies, contractors, \$10 million per year for 12 years (\$120 million).
Total title I, \$88.540 billion.
Title II, Gasohol, no House consideration.
Project financing, \$1.45 billion.
Research money, \$108 million.
Total title II, \$1.558 billion.
Title III. Energy targets, no House consideration, but no money.
Title IV. Renewable energy resources.
Project financing, \$230 million.
Total title IV, \$230 million.
Title V. Solar and conservation bank, utility conservation in House committee.
Project financing, \$3.440 billion.
Total title V, \$3.440 billion.
Title VI. Geothermal, no House consideration.
Total title VI, \$85 million.
Title VII. Acid rain and carbon dioxide study, no House version.
Total title VII, \$53 million.
Title VIII. Strategic petroleum reserve, no House consideration, \$1.2 billion.
Grand total, \$98.796 billion.

THE HIGH COST OF S. 933 CONFERENCE REPORT

At 412 pages and \$88 billion, this conference report comes to a total of \$214 million per page.

In a year of fiscal restraint, this bill authorizes \$20 billion to a legally undefined Synthetic Fuels Corporation and gives it authority to request an additional \$68 billion for programs that would include Federal-private joint ventures, Government-owned, privately operated undertakings, and ill-defined loan and purchase guarantees which could all easily be converted into totally Government-owned energy ventures.

We created the Department of Energy to speed the implementation of our energy programs.

But under the Moorhead bill, we expanded the authorities of the Defense Production Act, because the agencies of Government could not act fast enough.

Then the Senate established a Corporation because Government agencies, including the Defense Production Act, could not act fast enough.

Then, in conference, we decided that we needed to use the Defense Production Act authorities on an interim basis—because the Corporation, which was established because the Defense Production Act could not act fast enough—could not act as fast as the Defense Production Act authorities.

Then, we decided to turn the Corporation into a Government agency, which was the very evil we were trying to avoid when we started this process.

*U.S. Synthetic Fuels Corporation is authorized \$20 billion and is given the authority to request up to an additional \$68 billion.

S. 932 also will result in a new \$1.2 billion "tax" on the American public through modifications in the existing crude oil entitlements program to fund the filling of the strategic petroleum reserve. The modification in the entitlements mechanism will directly increase the cost of every gallon of gasoline and home heating oil purchased by U.S. consumers by up to one-half cent per gallon.

In addition, the conference report has approved a variety of studies and experimental programs at immense cost to the taxpayer with limited promise of practical results. These concepts are in the legislation simply because they appeal to members of the conference.

Further, S. 932 removes certain prohibitions against public utilities' providing funds and installing energy conservation measures for their customers. Thus, a utility which has a monopoly relationship with its customers will be allowed to dole out lucrative business to their favorite contractors and may actually get into the energy conservation loan business.

**REASONS TO OPPOSE S. 932 CONFERENCE REPORT DUE TO TITLE V—HOW
TITLE V WOULD PENALIZE SMALL BUSINESSES**

At first glance, title V of S. 932 established another profligate set of subsidy and spending programs totaling \$3.440 billion: \$2.6 billion for conservation loan subsidies, \$545 million for solar loan subsidies, \$200 million for weatherization grants, \$80 million for undefined industrial conservation research, \$25 million for the training and regulation of utility energy auditors, and \$10 million for demonstrating the so-called Bradley Plan, a scheme where homes would be insulated for free by "house doctors" paid by the utility which would then sell off conserved natural gas—which it buys from producers at federally controlled prices—at whatever the market would bear.

But title V cuts an even more dangerous course: It firmly steers energy conservation out of the hands of small business—where it has prospered—and into the hands of the utilities.

Title V would remove the Federal prohibition against utility supply and installation of energy conservation measures, and present small and local contractors with a cutting Hobson's choice: agree to the conditions established by the area utility program which will capture the lion's share of conservation business, or be muscled out of business by those contractors which do agree to the utility's conditions.

Many contractors opposed this change in existing law, as did the Small Business Administration.

Title V would remove the Federal prohibition against utilities financing the insulation of their customers, putting utilities in direct competition with local banks for home improvement loans. In addition, title V would classify utilities as financial institutions thereby entitling them to act as agents for the Federal solar energy and energy conservation bank.

With these new authorities, and the existing requirement that utilities offer energy audits to their customers, it is highly likely that the small businesses which have built the solar and conservation industries will soon have their backs up against the wall.

Mr. Speaker, the most disturbing thing about this bill is that it will establish a Synthetic Fuels Corporation that will be totally outside

gressional oversight or control. Its creation, through poorly drafted and confused legislative language, makes it inevitable that much of the billions of dollars that we are about to devote to synthetic fuels development will be used to pay for years of litigation and "sweetheart" deals for certain contractors. This corporation has no specific operating rules or regulations, thus inviting potential abuses of the taxpayer by this Government Corporation, and abuses of the taxpayer-financed corporation by private rip-off artists. The lack of specific in the conference language to control the Synthetic Fuels Corporation was explained away because the Corporation is to be sui generis, legal Latin for "one of a kind." So was Jack the Ripper.

I sympathize with those who feel they must vote for this legislative "Christmas tree" on the theory that "doing something—even if it is the wrong thing—is better than doing nothing." But I must oppose this legislation as a meritorious idea gone totally awry. This legislation is destined to become a textbook example of how Congress, with more political ambition than economic or entrepreneurial common sense, converts worthy objectives into bureaucratic nightmares.

Unfortunately, blind appeals to emotion and flag-waving will not change the contents of this legislation. I hope my colleagues have listened to reasoned arguments based upon fact, and defeat this conference report so that new conferees can be appointed and then instructed to come back with a more reasonable piece of legislation.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Arizona.

(Mr. Rudd asked and was given permission to revise and extend his remarks.)

Mr. RUDD. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is an expert in the energy field, and I just want to ask the gentleman if we do not already have this program in existence down at the Department of Energy, and what we are doing here will establish another layer of bureaucracy which, in a way, will hinder what has already taken place.

Mr. BROWN of Ohio. The Congress has already brought the American people the wonderful Department of Energy. We do not have programs like this, thank God, but it will be a new layer of bureaucracy.

Mr. RUDD. Mr. Speaker, this synthetic fuels program does not appear to be one which will get the job done in the shortest period of time.

This is a very different and vastly expanded bureaucratic enterprise than the original House-passed authorization bill.

Our distinguished colleague from Pennsylvania, Joe McDade, made an eloquent statement on this subject this morning in the Appropriations Committee, during consideration of Interior and related agencies appropriations for fiscal year 1981.

Congress already has set aside funding for a synthetic fuels program last year as part of the appropriations process, in order to get this program underway.

That program exists right now down at the Department of Energy, and the machinery to implement it is there.

More than 900 private sector synthetic fuel proposals have already been submitted, but DOE is holding them hostage because the Carter

administration and congressional leaders have told the Department to wait until this new Energy Security Corporation is established under the pending conference report. We cannot and should not allow this further delay.

Under this legislation, and the procedure it will establish, we will have another 1- or 2-year delay before a synthetic fuels program starts any productive work. By that time, many of the 900 private sector applicants will already have lost interest in the Federal program. The mechanism and the funding for a sound and potentially productive synthetic fuels program already exist.

Let us send a clear message to the Carter administration to stop procrastinating and begin implementation of this program that we already have adopted. Congress should tell the White House to stop playing politics with our energy situation through its insistence on creating more unwarranted and unaccountable bureaucratic machinery.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield such time as he may consume to the gentleman from Tennessee (Mr. Gore).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

(Mr. Gore asked and was given permission to revise and extend his remarks.)

Mr. GORE. Mr. Speaker, as one who was fortunate enough to serve on the conference committee, I rise in strong support of the conference report. Twelve years from now, when the Synthetic Fuels Corporation closes up shop, I am confident that those of us who supported this bill will look back with pride in the knowledge that we helped put America on the road back to energy security.

Every provision of this long and tremendously complicated bill has been closely scrutinized during the 7-month life of the conference committee. I will focus on a few specific provisions in some detail in my remarks. But this is a bill in which the total value is greater than the sum of its parts, so I would like to spend a moment reviewing the synthetic fuels portion of the bill in its totality.

America's reliance on imported oil, and the stranglehold that reliance has allowed oil-exporting nations to gain on our economy and our foreign policy, has been one of the biggest contributing factors to the inflation and diplomatic crises that have afflicted us in recent years. The American people have been told that there are no quick and easy answers to the energy problem. This is now more true than ever and this bill proves it. It is not quick and it will not be easy, but this bill is an important part of our answer.

We have the resources in this country to replace a large portion of the foreign oil we have been consuming. A lot of it is coal and a lot of it is oil locked in shale or in tar sands. We have or soon will have the technology to convert much of those resources into a form that will enable us to replace that foreign oil.

But as the energy economy is now constituted, we cannot convert coal or oil shale to useable liquid fuels at a price competitive with even the inflated price of foreign oil. And because of considerations of

national security and our national economy, we cannot afford to wait for those economics to change on their own.

The major purpose of title I of this bill is to hurry that process up by providing financial assistance to private companies to encourage them to develop these technologies and produce this fuel before the market would otherwise cause them to do so.

It will not be quick. The soonest anyone expects this effort to produce any substantial number of synthetic fuel projects is 4 or 5 years from now. It will not be easy. This mission is so complicated and unique that we have proposed the creation of an entity, called the Synthetic Fuel Corporation, which is unlike anything else Congress has ever created, to undertake it. It certainly will not be cheap, although the \$20 billion or \$88 billion price tags that people mention when they discuss this bill can be very misleading. It is essential to remember that most of the authorization to the Corporation is for investments that will be repaid as the projects reach fruition.

But no matter how long it takes, or how much effort or how many dollars of investment, I do not believe we can afford to shrink from the challenge of reducing our dependence on foreign oil.

By the strategy we have chosen, we will attempt to accomplish this urgent mission with as little interference as possible in the normal functioning of the marketplace. It is intended that private companies will build and own most or all of the synfuels projects.

But in case that strategy does not work exactly according to plan, there is a provision in the bill to allow the Corporation to build a limited number of federally owned plants. You may have heard this provision discussed under the acronym "GOCO," which stands for Government-owned, contractor-operated plants. I am pleased that the GOCO provision survived a number of attacks and remains in the bill. I am pleased because I believe that even if it is never used, the GOCO option will enable the Corporation's Board of Directors to negotiate on a more equal basis with the private companies that will build most of the synfuels projects. My interest in this provision derives from the history of synthetic fuel development in this country.

The United States had a synfuel development program under President Truman. The oil industry bitterly opposed the program at that time and worked hard to have it killed. Ultimately, after President Eisenhower was elected, the program was killed. If synfuels had been developed at that time, the OPEC cartel might never have been able to dictate prices to us. The lesson of that story is that we should be very careful not to allow the big oil companies to have too much control over our new synthetic fuels effort.

Bear in mind that one of the biggest benefits we can gain from the development of synthetic fuels at reasonable prices is that it will inhibit future increases in the price of OPEC oil. Since under the oil price decontrol program, domestic oil companies will be able to charge the world price for their oil, we should be justifiably skeptical of the sincerity of the oil companies' determination to develop synfuels at prices sufficiently low to hold down the world price of oil.

I do not question the basic decision embodied in this bill to accomplish the development of synthetic fuels primarily through private firms. Nor am I suggesting that oil companies should be precluded

or discouraged from participating in the program, since they are among the few companies that have the financial resources and the expertise necessary to develop these technologies. I am only suggesting that it is a good idea to arm the Synthetic Fuel Corporation with the tools necessary to negotiate with the oil companies on an equal basis.

Now without the GOCO provision, the oil companies or other private concerns could drive an extremely hard bargain. For example, they could insist that the Corporation guarantee them a very high price for their syncrude. Not only would this cause the Corporation to use up its resources too quickly, but the basic purpose of the bill, to encourage production of synfuels at prices that would enable them to compete with foreign oil, would be frustrated.

But with the GOCO provision, which came during the conference to be described as the "shotgun in the closet," the Corporation can say to a company that is driving too hard a bargain: "We believe this technology can produce fuel at a cheaper price and if you do not offer to do it, we will build a GOCO and show that it can be done."

A number of provisions were put in to limit the GOCO option and to make sure the Corporation does not use it too quickly or often. For example, no more than three GOCO's can be built and only during the first 4-year phase of the program. These restrictions were included largely to placate those who feared that the GOCO option was a sneaky way of setting up a Government oil company. Personally, I could have supported a less restrictive GOCO provision. But the Corporation officials should not mistakenly interpret the restrictions as a signal that the Congress does not intend for the GOCO option to ever be exercised. The bill says that the GOCO option should only be used if the Board finds that private companies are not offering to build synfuels plants under reasonable terms and conditions using any of the other financing assistance mechanisms provided in the bill. If we had intended that the GOCO option should never be exercised, we would have left it out altogether.

The other financial assistance option that survived some attacks was the joint venture option described in section 136. Under this option, the Corporation can finance up to 60 percent of the cost of a constructing a first module of a synthetic fuel plant as an equity partner in the module. Then, after the module has been built and proven commercially viable, and other modules are planned, the Corporation can sell its equity to the partner of another private concern. In my mind, this provision was inspired by the successful tar sand plant in Alberta, Canada in which the Canadian Government is a partner along with several private companies.

The original Senate joint venture provision prohibited the Corporation from playing any role in the management or operation of the module. It did not make sense to let the Corporation be a part-owner of a project without allowing it some flexibility to negotiate a role in the management decisions. So, largely at the suggestion of Chairman Don Fuqua and myself, the provision was changed to permit the Corporation to negotiate a management role for itself, provided that it would never assume primary responsibility for management. These provisions are spelled out in section 136(f) subparts (1) and (2).

I noticed in the report language on these sections it says that the conferees do not intend that the Corporation must or should negotiate a role in the decisionmaking or management of a module linked to its ownership in the joint venture. As one of the sponsors of that provision, I would like to clarify my understanding, which was that the conferees did not intend to discourage the Corporation from negotiating a management role for itself, if the Board felt that was desirable to protect the Corporation's investment or to insure that the project is managed in the public interest. By the report language, we meant to say that we did not intend the Board to necessarily or automatically negotiate such a role for itself.

The history of first-of-a-kind energy plants indicates that they have an alarming tendency to cost a lot more than first estimate of their costs. Cost overruns of 200 and 300 percent have unfortunately been the rule, rather than the exception with such plants. In an effort to prevent this problem from occurring in the synthetic fuel program, the conferees fashioned an innovative approach to cost overruns, which is contained in section 131(u) and in parts of the sections on loans and loan guarantees by the Corporation.

In researching the problem of cost overruns on other first-of-a-kind plants, I found that the costs grow, not necessarily because of poor management of the construction, but often simply because problems could not be foreseen at the time the first estimate is prepared and submitted. As the design and engineering progress, much more accurate estimates can be made. We felt that if the Corporation could withhold final approval of financial assistance until a more mature estimate could be made, the Board could make a better decision on which of several competing projects is really the best buy for the program, and could also plan better for the real cost of constructing plants.

The Corporation does not have to use the mechanism we provided in section 131(u), but if the Board chooses to use this on a particular project, this is how it would work: A number of concerns might submit preliminary estimates for a particular type of synfuel plant. From that original pool of applicants, the Board could select one or more that seem promising and agree to share the cost of refining those proposals with some additional engineering and design work.

The sharing would be on a 50-50 basis and the Corporation's share would be limited to no more than 1 percent of the preliminary estimate. The result would be that the Corporation would receive one or more proposals with much more mature, refined initial estimates and decide whether to pick one of those proposals or whether to go ahead with the project at all. If the Corporation ultimately awards a loan or loan guarantee to a project that has received cost-sharing assistance, the amount of the cost-sharing would be incorporated into the total financial assistance given to the project.

After the project gets underway, if it turns out the cost exceeds even the refined initial estimate, the recipient could apply for a loan or loan guarantee for only 50 percent of the additional costs until the estimate reaches 200 percent of the initial estimate. Above that, the project could receive only 40 percent funding for the next 50 percent of cost growth and any assistance above that 250 percent would be subject to congressional veto.

The bill also says that the estimates should be adjusted according to a construction price index. It seems to me desirable that the inflator should be negotiated as part of the original agreement, but that provision insures that in case the agreement does not account for inflation, the contractor should not be penalized for inflationary increases over which he has no control.

I plan to follow the progress of the cost overrun strategy in the synfuels program with interest, in the hope that if it proves successful a similar provision might be included in programs for Government or Government-assisted construction.

Even with the controls contained in that provision, this problem of cost overruns may raise in some Members' minds the fear that there is no limit to the amount of assistance some of these projects might require. To reassure you on that score, I would direct your attention to section 131(j), which says that no one project, nor any one company, including any of its affiliates or subsidiaries, can receive more than 15 percent of the total authorization. This means that during the first phase of the program, when \$20 billion is the authorization, no one project can receive more than \$3 billion in assistance and no one company can receive more than \$3 billion.

This has the added advantage of assuring that there will be at least seven projects assisted by that \$20 billion and that no one company will receive too large a portion of it. Of course, \$3 billion is still an awful lot of assistance and the conferees certainly hope that not every project turns out to require that much.

The conferees had some discussions of what kinds of alternative energy sources should be included in the definition of synthetic fuels. We did not want to make the definition so broad that the Corporation would be confronted with an unmanageable array of possibilities to consider, but we did not want to preclude any possibility that had a reasonable likelihood of helping reach the goal of 2 million barrels a day of syncrude by 1992.

One alternative in which I took an interest is hydrogen fuel. Some people believe that hydrogen has the potential to make an enormous contribution and it has the advantages of being available in virtually unlimited supply and of being a very clean-burning fuel. Others felt it should be excluded because they did not believe it was as close to being ready to be produced on a commercial scale at prices that will compete with traditional energy sources.

I argued for the inclusion of hydrogen, including hydrogen from water, not because I thought it should be given any special advantage over the other alternatives but because I believed it should be allowed to compete on an equal basis with oil shale, liquefied coal and the others. Hydrogen was ultimately included in the definition and, if it turns out that hydrogen fuel can be commercially competitive within the life of the program, I assume the Corporation will give it the attention that it deserves.

By focusing so much of my remarks on title I of the bill, the synthetic fuels title, I certainly do not mean to overlook the importance of some of the other titles. Title II on biomass and alcohol fuels, and title V on the solar and conservation bank, have a great and important role to play in the overall energy security strategy encompassed by this urgently needed, far-reaching legislation.

Today, as we vote on the conference report, I urge my colleagues to give it the overwhelming mandate it deserves. I was honored to serve on the conference committee and as proud to be associated with this report as I have been of anything I have done during my two terms in Congress. It has been a privilege to serve under the leadership of such fine Members as the gentleman from Pennsylvania and the distinguished majority leader who have given so much of themselves to bring us to this day.

I can think of no more fitting capstone to the long and distinguished legislative career of the gentleman from Pennsylvania than this bill, of which he is unquestionably the principle sponsor. And without the firm hand of the majority leader, exhorting us constantly to bring the conference to a satisfactory conclusion, I am afraid we might have conferred for 7 years, instead of 7 months. I am also grateful to the rest of the conferees for the lesson they have taught me and the example they have set by their commitment to full, fair, and open discussion of all issues.

I take one final opportunity to urge the rest of my colleagues to vote yes on the conference report, and yes for energy security for America.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield 2 minutes to my good friend and colleague, the gentleman from Indiana (Mr. Sharp).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. SHARP. I appreciate the gentleman's yielding, and I wonder if we might clarify a matter in one portion of the bill.

The provisions of section 648 represent a significant extension of the scope of sections 201 and 210 of PURPA, as they apply to geothermal small power production facilities. Existing law directs the Federal Energy Regulatory Commission to encourage certain non-utility-owned cogeneration and small power production—including geothermal—by requiring utilities to purchase power from, and to sell power to, such facilities at rates set under the Commission's regulations, and by authorizing the Commission to exempt such facilities from State and Federal utility regulations.

The conference report expands the Commission's authority under these sections of PURPA by directing the Commission to encourage utility, as well as nonutility, geothermal small power production not in excess of 80 megawatts capacity. The Commission may exercise its discretion under section 210 to exempt such facilities from State and Federal utility regulations. The amendment does not specifically authorize the Commission to make the rate benefits of section 210(a) of PURPA available to such utility-owned facilities; however, under its broad authority to encourage geothermal small power productions, the Commission could choose to make some, or all, of the section 210 rate benefits applicable to such facilities in the same manner as such benefits are available to nonutility-owned facilities. Is that the gentleman's understanding of section 648?

Mr. DINGELL. If the gentleman will yield, the gentleman from Indiana is correct in that interpretation.

Mr. SHARP. I thank the gentleman. I might add I appreciate the gentleman's work and the work of the leaders on the conference especially the gentleman from Pennsylvania. While we might have disagreements with various portions and provisions of this legislation, I think the overall thrust is of significance to this country and will set us on a better course for the future.

Mr. Speaker, I urge my colleagues to support the conference report.

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to be given 4 minutes to the gentleman from Illinois (Mr. Corcoran).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

(Mr. Corcoran asked and was given permission to revise and extend his remarks.)

Mr. CORCORAN. Mr. Speaker, although I oppose passage of the conference report accompanying S. 932, the Energy Security Act, I am greatly encouraged by the inclusion of title III in the pending conference report. This title would encourage the President and Congress to establish "energy targets" for the United States for the very first time. Although the President is now required by title I of the Department of Energy Organization Act of 1977 to submit annually to the Congress a proposed national energy plan, the Congress is not now an integral part of that policymaking process.

The provisions incorporated in title III of the pending legislation are very similar to legislation I introduced on September 14, 1979, H.R. 5282, the Domestic Energy Policy Act. That legislation is identical to S. 1371, introduced on June 19, 1979, by the Senator from Louisiana, J. Bennett Johnston. Title III requires the President to transmit to Congress energy targets beginning in February 1981 every second year thereafter. Title III also sets forth expedited procedure by which the 97th and 98th Congresses are to consider energy targets. These targets are to be transmitted and considered in the text of annual Department of Energy authorization bills.

My reason for sponsoring this legislation is that the people of Illinois, and elsewhere, have yet to see their Government tackling energy problems in a comprehensive fashion. I personally believe much of the energy crisis can be blamed on the Government's policies. Regardless of our individual views of the Government's energy policies, we ought to have in place a logical system by which the legislative and executive branches of the U.S. Government establish energy targets and policies. Title III provides just such a system.

I am pleased that H.R. 5282 attracted bipartisan support. I would like to thank at this time the Members who indicated their support for the concept of energy targets by cosponsoring H.R. 5282: the gentleman from Alabama (Mr. Bevil); the gentleman from California (Mr. Lagomarsino); the gentleman from New Jersey (Mr. Hughes); the gentleman from Puerto Rico, Resident Commissioner Corrada; the gentleman from Iowa (Mr. Tauke); the gentleman from Minnesota (Mr. Nolan); and the gentleman from New Jersey (Mr. Roe). I would also like to extend my thanks to groups such as the American Society of Civil Engineers, whose leadership has effectively supported energy targeting because it is in line with the overall problem-solving approach of engineers.

My special appreciation is reserved for Senator Johnston, whose leadership on the Committee on Energy and Natural Resources, in conference, and on the floor of the other body, assured the inclusion of title III as it has moved toward enactment.

Mr. Speaker, although I must oppose the passage of S. 932, I do recommend to my colleagues the provisions of title III as a most logical procedure by which to formulate national energy policy.

Mr. Speaker, at this time I would also like to engage the chairman of the Subcommittee on Energy and Power, our distinguished friend from Michigan (Mr. Dingell), in a colloquy on this particular section, because as was pointed out by our friend from Ohio, it did not receive the usual committee consideration, the usual House consideration, but was added by the conferees to this particular measure now pending.

So if the gentleman would consent to engage in a colloquy, my first question would be: Does the gentleman agree with me that we ought to have the kind of comprehensive congressional assessment of national energy policy which is envisioned by title III of this conference report?

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Michigan.

Mr. DINGELL. The answer to that question is generally yes, as a part of our other legislative and oversight activity, although I am not convinced title III is necessarily the best vehicle for service review.

Mr. CORCORAN. The second question I would ask, and I appreciate the chairman's response to the first question, but the second question relates to the procedure wherein the Congress will consider the submission of energy targets from the executive branch and ultimately the action by the Congress. And so, I wonder at what point next year would the gentleman anticipate House committee consideration of the energy targets that would be proposed by the administration at that time?

Mr. DINGELL. I would observe that one of the best times that this could be continued, and as a matter of fact, the best time I think this would be done as a result of and during the comprehensive DOE authorization process when we could go into this in connection with the missions and responsibilities of that agency.

Mr. CORCORAN. It is my understanding title III would provide that the President would make the submission sometime in February, and there would be a procedure so that by May 15 and ultimately by July 15 there would have to be committee consideration.

Would the gentleman envision the committee taking action on the authorization bill about that time?

Mr. DINGELL. If the gentleman would continue to yield, the answer to that question is yes, to the extent oversight is called for, the Congress should do it.

I emphasize that contractors will not be the most desirable mechanism for this effort. It is not the intention of the subcommittee to use contractors. I would hope they would not be used by the departments downtown in connection with this matter.

Mr. CORCORAN. I appreciate the chairman's comments on that, because I think it is one of the improvements that the conferees made with respect to the original legislation that was introduced by our friend from Louisiana in the other body, Senator Johnston—

The SPEAKER pro tempore (Mr. Carr). The time of the gentleman from Illinois (Mr. Corcoran) has expired.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield 1 additional minute to the gentleman from Illinois.

The SPEAKER pro tempore. Without objection, the gentleman from Illinois (Mr. Corcoran) is recognized.

There was no objection.

Mr. CORCORAN. And so the point I am concerned about here is that the Department of Energy would simply contract out this particular requirement and not get involved itself in terms of its key officials in the decisionmaking process. I would hope that we would have an oversight by the committee which would make sure that it is not simply a product of a consultant, but rather, the product of the Department of Energy officials themselves.

Mr. DINGELL. If the gentleman will yield further, that is fully my intention. I think the Congress should do that.

Mr. CORCORAN. One final question, during congressional consideration, does the gentleman expect all interested parties would have an opportunity to participate in the consideration of the proposed energy targets?

Mr. DINGELL. The answer to that question is absolutely yes. I would have to observe, if the process is to work at all in establishing a useful and sensible pattern of energy targets and goals, we will have to have wide and broad public participation and participation from experts of different kinds.

Mr. CORCORAN. I thank the gentleman for his very helpful contribution on this matter.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield 3 minutes to the gentleman from Texas (Mr. Eckhardt).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. ECKHARDT. Mr. Speaker, I oppose the conference agreement.

I believe that we should not try artificially to direct new energy efforts by publicly underwriting the risks.

The synthetic fuel program violates this tenet.

The conference agreement permits the authorization of up to \$88 billion in financial assistance for synfuel production, with \$20 billion authorized for fiscal year 1981. It establishes a U.S. Synthetic Fuels Corporation, which will administer the synfuels incentive program.

The U.S. Synthetic Fuels Corporation would have a seven-member Board of Directors to be appointed by the President and confirmed by the Senate for staggered 7-year terms.

This legislation is designed to ultimately give an \$88-billion guarantee that companies embarking on a synthetic fuel program would be able to sell their high-priced product in the market. For example, if a company produced synthetic oil from coal and had to sell it for \$35 a barrel when other oil was available on the market at \$30 per

barrel, the \$88 billion fund would be available to make up the difference. For instance, the Government could pay the extra price and use the oil for its strategic oil reserves. Or the Government could simply subsidize the manufacturer of the \$35 oil so as to permit such manufacturer to sell the oil in the market at \$30 but receive \$35 for the product.

Actually, when the plan was conceived, it was envisaged that oil on the world market would sell at about \$20 and the subsidy would be about \$18 additional to permit a \$38-cost of synthetic fuels. Ironically, the top price in the market, taking into account uncontrolled domestic oil, is about \$38 now. Therefore, it seems ridiculous to use public money to guarantee salability of synthetic fuels when present world oil prices invite them into the market without subsidy.

I think the program is ill conceived. I believe we will eventually come to the conclusion that a research and development effort involving a few demonstration plants would be far more economical and would allow resources to be used for a variety of alternative production incentives.

Another problem which has emerged concerning synthetic fuel production is that any realistic estimate of production from even the most ambitious proposal would not bring on-stream enough oil equivalent to have very much of an impact until well into the 1990's.

In addition, a commitment to a crash program to produce synfuels would be some means of speeding the process of approval of permits to build plants which threaten environmental degradation. This has spawned the "fast track" legislation which has been bitterly opposed by environmentalists, because it permits waiver of a substantive environmental law. Synfuels are much more polluting than fossil fuels because they pollute the air twice—once in the making—as with in situ burning of coal to make gas—and again in the burning of the synfuel at the point of use of such fuel as an energy source.

Tomorrow the House will consider the conference report on S. 1308, legislation to create an Energy Mobilization Board with unprecedented power to restrict the rights of States to regulate energy development within their borders. As my colleagues consider whether to recommit this conference report, they should give special attention to this sampling of the State health, safety, and environmental protection laws which will be subject to one or more of the powers of the EMB to take over, waive, or otherwise usurp State decisionmaking authority:

ALABAMA

Air Pollution Control Act of 1971.
Water Pollution Control Act.
Solid Waste Disposal Act and Amendments.
Hazardous Waste Management Act of 1978.
Surface Mining Reclamation Act of 1975.
Coastal Zone Act.

ALASKA

Alaska Statutes Title 46, Water, Air and Environmental Conservation.
Alaska Statutes—Chapter 60, Safety.

ARIZONA

Air Pollution Law.
Water Pollution Control Law.

Solid Waste Law.
Comprehensive Statewide Solid Waste Management Plan, Art. B2, Title :
Mining Code and Regulations.

ARKANSAS

Arkansas Water and Air Pollution Control Act.
Arkansas Solid Waste Management Act 237.
Arkansas Solid Waste Management Act 238.
Arkansas Surface Coal Mining and Reclamation Act of 1979.

CALIFORNIA

California Environmental Quality Act as amended January 1, 1980.
Air Pollution Control Laws—1979 edition.
Statutory Water Rights Law and Related Water Code Sections—January
1978.
The Porter-Cologne Water Quality Control Act—January 1978.
Solid Waste Management and Resources Recovery Act.
Hazardous Waste Control Law.
Hazardous Waste Haulers Act.
California Coastal Act.

COLORADO

Air Pollution Control Act of 1970.
Colorado Water Quality Control Act.
The Colorado Mined Land Reclamation Act.
Colorado Mining Laws with Safety and Health.

CONNECTICUT

Environmental Protection Act of 1971.
Air Pollution Act.
Water Pollution Law.
Water Resources Act.
Water Pollution Control Law.
Solid Waste Management Act.
Inland Wetlands and Watercourses Act.
Coastal Area Management Act.
Public Utility Environmental Standard Act.

DELAWARE

Environmental Protection Act.
Department of Natural Resources and Environmental Control Law.
Underwater Land Act.
Solid Waste Authority Act.
Coastal Zone Act.
Wetlands Act.

FLORIDA

Florida Air and Water Pollution Control Act.
Florida Environmental Land and Water Management Act of 1972.
Pollution Control Law.
Florida Water Resources Act of 1972.
The Pollutant Spill Prevention and Control Act.
Pollutant Discharge Act.

GEORGIA

Georgia Air Quality Control Act of 1978.
Water Quality Control Act.
Water Quality Control Act, 1977 amendments.
Solid Waste Management Act.
Georgia Surface Mining Act.
Coastal Marshlands Protection Act of 1970.

HAWAII

Environmental Quality Law.
Environmental Quality Council Law.

Environmental Quality Commission Law.
Waste Disposal Act.
Use Laws.
National Safety and Health Act.

IDAHO

Environmental Protection and Health Act of 1972 and supplement.
Pollution Abatement Act and amendments.
Waste Disposal Sites Act.
Coal Mining Act.
Oil Mining Act.
Planning Act of 1975.

ILLINOIS

Environmental Protection Act.
Open-Pit Mined Land Conservation and Reclamation Act.

INDIANA

Environmental Management Act.
Environmental Policy Law.
Pollution Control.
Indiana Pollution Control Law.
Waste Disposal Act.
Coal Mining Act & Guidelines.

IOWA

Environmental Quality Act.
Hazardous Waste Act.
Coal Mining Law.

KANSAS

Quality Control Act.
Pollution Control Statutes.
Waste Management Act.
Waste Disposal Act.
Open-Pit Land Conservation and Reclamation Act.

KENTUCKY

Kentucky Environmental Protection Law (Air and Water).
Kentucky Strip Mining Law.
Kentucky Mine Law Changes.
Governing the Mining of Coal and Clay.
Gas, and Salt Water Wells, Chapter 353, KRS.
Kentucky Garbage and Refuse Disposal Law.

LOUISIANA

Environmental Affairs Act.
Water Control Acts.
Waste and Reclamation.
Waste and Local Coastal Resources Management Act of 1978 and Rules and Regulations.
Natural Resources & Energy Act of 1973.

MAINE

Administrative Authority—Department of Environmental Protection.
Water Pollution and Improvement of Water.
Waste Laws.
Waste Planning and Land Use Laws.

MARYLAND

Land Environmental Policy Act.
Pollution Law.
Drinking Water, Ice, and Sewage Laws.
Waste Law.
Disposal of Designated Hazardous Substances Law.

Natural Resources Laws: Title 1—Department of Natural Resources, Title 6—
Gas and Oil, Title 7—Mine and Mining.
Power Plant Siting Program Acts.
Coastal Facilities Review Act—Natural Gas.
Maryland Laws Pertaining to Surface Mining, Reclamation and Exploration.

MICHIGAN

Environmental Protection Act of 1970.
Air Pollution Laws.
Natural River Act.
Water Resources Commission Act.
Solid Waste Management Act and Amendments.
Resources Recovery Act.
Liquid Industrial Wastes Act.
Hazardous Waste Management Act.
Shorelands Protection and Management Act.
Soil Erosion and Sedimentation Control Act.
Oil and Gas Law and Rules.
Mine Reclamation Act and Rules.
Water and Power Company Act.
Power Plant Siting and Transmission Line Routing Law.
Health and Safety.

MISSISSIPPI

Air and Water Pollution Control Act.
Solid Waste Disposal Law of 1974.
Resource Conservation and Recovery Act of 1976.
Coastal Wetlands Protection Law.
Surface Mining Law.

MISSOURI

Air Conservation Law.
Water Control Law.
Waste Disposal Well Law.
Solid Waste Management Law, Rules and Regulations.
Hazardous Waste Management Law.
Reclamation of Mining Lands.
Land Reclamation Act.

MONTANA

Clean Air Act of Montana.
Montana Environmental Quality Act.
Montana Laws Regarding Water Pollution.
Montana Laws Regarding Public Water Supply.
Montana Solid Waste Management Act.
Solid Waste Management Act (1977 Amendments).
The Strip Mined Coal Conservation Act.
The Strip and Underground Mine Siting Act.
The Montana Strip and Underground Mine Reclamation Act.
The Openpit Mining Act (Reclamation).
Montana Laws Relating to Industrial Safety.

NEBRASKA

Environmental Protection Act (Air and Water).
Solid Waste Disposal Sites Law.
Oil and Gas Law and Rules.
Land Use Statutes, Regulations and Report.

NEVADA

Air Pollution Control Law.
Water Pollution Control.
Solid Waste Laws and Regulations.
Public Lands Act.

NEW JERSEY

Environmental Protection Act of 1970.
 Environmental Rights Act.
 Pollution Control Laws.
 Pollution Control Act.
 Quality Planning Act.
 Waste Management Act.
 Control Act.
 Compensation and Control Act.
 Nuisance Act of 1970.
 Solid Area Facility Review Act.
 Safety Act.

NEW HAMPSHIRE

Hampshire Air Pollution Control Legislation.
 Hampshire Laws for the Promulgation and Enforcement of Water Quality
 Laws.
 Orders and Regulations Relating to Solid Waste Disposal.
 Solid Waste Management Act.

NEW MEXICO

Environmental Improvement Act.
 Air Quality Control Act.
 Air Quality Act.
 Solid Waste Act.
 Surface Mining Act.

NORTH CAROLINA

Environmental Management Laws.
 Waste Management Act and Amendments.
 Air Pollution Control Act of 1973.
 Air Quality Laws.

NORTH DAKOTA

Pollution Control Act.
 Pollution Control Act.
 Waste Management and Land Protection Act.
 Land Reclamation Acts.

OHIO

Laws Regulating Ohio EPA.
 Surface Mine Law.
 Surface Mine Law Amendments.
 Surface Mine Law.

OKLAHOMA

Pollution Control Coordinating Act of 1968.
 Air Act, Regulations and Guidelines.
 Pollution Control Statutes.
 Pollution Remedies Laws.
 Waste Management Act.
 Hazardous Waste Law.

OREGON

Pollution Control Law.
 Waste Control Act.
 Control Act.
 Land Reclamation Act.
 Noise Law.
 Comprehensive Planning and Zoning.
 Comprehensive Planning and Zoning.
 Hazardous Facility Law.
 Laws and Rules.

PENNSYLVANIA

Pollution Control Act.
 Streams Law.

Solid Waste Management Act.
Mining Laws.
Oil and Gas Laws.
Land and Water Conservation and Reclamation Act.

RHODE ISLAND

Air Pollution Law.
Water Pollution Law.
Refuse Disposal Law.
Freshwater Wetlands Act.

SOUTH CAROLINA

Pollution Control Act (Air and Water).
Hazardous Waste Management Act.

SOUTH DAKOTA

Environmental Protection Act of 1973.
Environmental Policy Act.
Air Pollution Control Law.
Water Pollution Control Act and Amendments.
Solid Waste Disposal Act.
Surface Mined Land Reclamation Act of 1971.

TENNESSEE

Air Quality Act.
Water Quality Control Act.
Solid Waste Act and Regulations.
Hazardous Waste Management Act.
Surface Mining Law.

TEXAS

Clean Air Act.
Water Quality Act.
Solid Waste Disposal Act.
Surface Coal Mining and Reclamation Act.
Oil and Gas Laws.

UTAH

Air Conservation Act.
Water Pollution Control Act.
Solid Waste Management Act.
Hazardous Waste Act.
Regulation of Coal Mining and Reclamation Operations Act.
Oil and Gas Conservation Act.
Mined Land Reclamation Act.

VERMONT

Environmental Conservation Act.
Air Pollution Control Act.
Water Pollution Control Law.
Solid Waste Management Laws and Regulations.
Mines and Quarries on Public Land.
Land Use and Development Law.

VIRGINIA

Air Pollution Control Laws of Virginia.
State Water Control Law and Policy.
Groundwater Act of 1973.
Flood Damage Reduction Act.
Impoundment of Surface Waters Act.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield 2 minutes to the gentleman from Massachusetts (Mr. Markey).

The SPEAKER pro tempore (Mr. Carr). Is there objection to the request of the gentleman from Michigan?

There was no objection.

What is that philosophy? That philosophy says that we are going to let the market regulate the American people out of the mess in which we are mired.

The Republican party says that we are going to produce our way out of the mess.

Now, how is the philosophy of the Democratic party manifested in this bill? There are three principles that govern. The first one says, deregulate.

The second says, if you want it.

The third one says, if it makes a profit, deregulate it because it must be doing something right.

Now, the bill deregulates the first principle, it moves, regulate it.

Dr. Warren M. Harvey, former head of the U.S. Geological Survey, in 1977 made a speech in which he said that this nation has a quantity of natural gas estimated at 40,000 to 80,000 trillion cubic feet located in the gulf coast of this country. This happens to be about 3,000 to 5,000 times the amount of natural gas the U.S. consumed in 1977. President Carter fired him after this speech.

Immediately when you mention this, you ask, "Well, why aren't we producing it?" Because this Congress said in the early seventies that we would have a shortage of natural gas. How did we do it? The Congress passed a law which fixed the maximum price below the market price and guaranteed that this country would have a shortage of natural gas because the maximum price fixed by this Congress is now \$2.45 a thousand cubic feet.

Now, if it costs you \$3 to \$4 a thousand cubic feet to produce the gas, how much do you think you are going to get produced out of that zone? Answer, none, unless you use Government math.

Now, some may say, "Now, wait a minute, by law, effective January 1980, we deregulated the price of natural gas below 15,000 feet."

True, except that this quantity of natural gas in the gulf coast of our country is around 11,000 feet down, so it remains regulated. What should we do? We should immediately deregulate the price of natural gas, which will be regulated until 1985.

What can we expect from this act? The evidence developed by the Heritage Foundation in a study produced last year indicates that if we had the political courage to deregulate the price of natural gas right now, rather than waiting until 1985 as the law now says, we could increase production of natural gas by 2½ million barrels a day oil equivalent by 1985.

Now, contrast that change in the law, which does not cost us anything, with what the taxpayers are going to be asked to pay for this interesting piece of legislation now before the House. It is \$92 billion. And the sponsors contend that by spending this sum of money we will produce 500,000 barrels per day by 1987 and 2 million barrels per day by 1992. We have had the Department of Energy since 1977 spending \$10 billion per year and it has not produced one drop of oil.

The time may come when the Federal Government should get into the synthetic fuels business for the good of the country.

But before we take this very expensive step we should adopt every reasonable proposal to let the private sector of our economy produce what it can.

If we deregulate natural gas prices immediately, we will soon know if increased production is realized. Republicans believe this is the step we should take and the American taxpayer will be the beneficiary of such an action.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield 2 minutes to the gentleman from California (Mr. Coelho).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. COELHO. Mr. Speaker, first, let me offer congratulations to the gentleman and to other Members who have crafted this complex and immensely important legislation. I rise to pose two questions concerning title VIII of the conference bill which deals with the strategic petroleum reserve.

In title VIII the President is directed to amend the entitlements program to provide for Government purchases of oil at or near lower-tier prices. Does the conference bill intend this to be the primary means of filling the strategic reserve?

Mr. DINGELL. That is correct. We direct the President to amend the regulations to use this authority to purchase oil at a lower-tier price.

Mr. COELHO. May I also ask if it is the gentleman's understanding concerning title VIII of the bill that sales of Elk Hills production are restricted to sales or exchanges to fill the strategic petroleum reserve unless the administration has arranged for the reserve to be filled at an annual average rate of 100,000 barrels per day?

Mr. DINGELL. That is correct. They must either fill the reserve at an annual average rate of 100,000 barrels per day or Elk Hills oil must be used to meet that goal.

Mr. COELHO. Is it also the gentleman's understanding that in the case where the Government has failed to meet a 100,000-barrel-per-day rate that the Government may either directly transfer Elk Hills production to the reserve or it may do this by various types of exchanges?

In particular, I am wondering whether the Government under title III, would be allowed to sell Elk Hills oil as long as the proceeds are used to purchase an equivalent amount of oil for the reserve.

Mr. DINGELL. As the report of the conferees indicates, Elk Hills oil may be indirectly exchanged for oil to be placed in the reserve. This is intended to the private parties or by the Government. In such a case, Elk Hills oil might be sold to a broker who in turn would purchase oil of similar quality and value and sell the same to the reserve. The Government could carry out the same type of transaction—selling Elk Hills crude, and purchasing similar crude for the reserve. These kinds of transactions are envisioned under the exchange authority provided in section 804(b) of the act. What would not be permitted, however, is any transaction transferring Elk Hills oil which was not closely followed by the delivery of an equivalent barrel of oil to the strategic reserve. The transfer or sale of Elk Hills oil and deliveries to the reserve must form one continuous transaction.

Mr. COELHO. I thank the gentleman. I appreciate his cooperation in explaining this to me and our colleagues.

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to yield minutes to the gentleman from Iowa (Mr. Tauke).

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TATUM. Mr. Speaker, I applaud the major goal set forth in S. 332, the omnibus energy bill, to help rid us of our dependence on foreign oil and to speed up the development of our own domestic energy industries. While I have some misgivings about the conference committee report, I strongly support title II of the bill, which authorizes funds for the development of an expanded alcohol fuels program and sets production targets equal to at least 10 percent of our estimated gasoline consumption by 1960.

Recently, however, an ominous trend has developed that could serve as an obstacle to the establishment of a strong alcohol fuels industry in the United States. Because of strikes that have hit its automobile industry, Brazil has begun to export large amounts of alcohol fuel to the United States. While it is too early to tell whether this action will have a detrimental effect on our alcohol fuels industry, it could portend serious problems in the future.

It is very probable that imported alcohol from Brazil, priced at about 40 cents per gallon less than the U.S. version, could endanger the development of the alcohol industry in the United States, just when new plants become operational in the next few years. In fact, it appears now that Brazilian alcohol is even priced below U.S. production costs. It could be particularly harmful if Brazilian alcohol inhibited the U.S. ethanol industry from producing up to its full capacity.

The intent of S. 332 is to reduce our dependence on foreign energy, whether that energy takes the form of oil used in the refining of gasoline or ethanol used in the blending of gasohol. In order to meet this objective, we must monitor closely the amount of alcohol fuel imports from Brazil to insure that they do not disrupt the development of alcohol fuels in the United States.

Mr. DINGELL. Mr. Speaker, I am so anxious to hear what the gentleman from Ohio has to say that I ask unanimous consent to yield him 1 minute.

The **SPEAKER** pro tempore. Mr. Carr. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BROWN of Ohio. I want to make the observation, Mr. Speaker, that we will later vote on the Energy Mobilization Board legislation. There will then be an opportunity to undo the possibilities of the passage of this act by the defeat of the Energy Mobilization Board because if the Energy Mobilization Board is not successfully passed, then there will not be the "fast track" procedural priorities available for the projects that would be allowed for in this synfuels bill. That would probably be a good thing.

However, since I support the Energy Mobilization Board legislation and oppose this, it will probably be my luck that the Energy Mobilization Board would be defeated and this would pass.

The **SPEAKER** pro tempore. The gentleman from Michigan has 4 minutes remaining.

Mr. DINGELL. Mr. Speaker, I reserve the balance of my time.

Mr. McKINNEY. Mr. Speaker, I yield 1 minute to my friend, the gentleman from California (Mr. Clausen).

(Mr. Clausen asked and was given permission to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, as a longtime proponent of alternative energy resource development and production, I want to join my colleagues from the House committees of energy jurisdiction in supporting this compromise which I believe is basically acceptable to all parties in order to insure prompt enactment. It is by no means a perfect bill and I have serious reservations and concerns relating to that portion of the bill setting up a Synthetic Fuels Corporation. However, with close monitoring and possible revisions in the future, I believe that the conferees have provided us with the basic tools to spur domestic production of synthetic fuels, similar to Germany's effort during World War II.

I would like to remind my colleagues of the words stated by the President of France:

On the day the United States will really start to move in the production of synthetic fuels, there will be a major change in the world situation.

This legislation will not only create a private synthetic fuels industry to protect us from the seemingly limitless price increases by the OPEC countries, but, most important of all, it will commit us to resume filling of our strategic petroleum reserves—an absolutely essential step in preventing future blackmail, by any foreign country, which we must rely on for petroleum imports. I believe the bill recognizes that the strategic petroleum reserve constitutes a national security asset of paramount and vital importance. The strategic petroleum reserve section of this bill is one of the key reasons causing me to vote affirmatively. This legislative directive is a must.

In particular, I support the bill for moving us ahead in the areas of solar and geothermal energy, alcohol fuels, conservation efforts and acid rain research. This becomes significant in light of recent reports by the General Accounting Office (GAO) and the Commerce Department, which have made projections of the levels of national energy consumption and supply through the year 2000.

It is important to note that both of these reports factor into their data significant emphasis on energy savings resulting from conservation efforts and significant increases in both solar and geothermal production. These reports assume that these sources will generate approximately 32 times the current level of energy. Both reports assume a virtual phaseout of oil and gas as major sources of electrical energy by the year 2000—an objective I have advocated with consistency over the years.

As you may know, I joined several of my distinguished colleagues in urging the committee of conference to provide us with the strongest possible acid rain research plan. The plan includes an integrated and coordinated approach to identify causes and effects of acid precipitation and appropriate actions. What we do know about this meteorological phenomenon is that the acidity of rain and snow falling on widespread areas of the world has been rising during the past two decades or so. It has been linked to sharp declines—and in some cases to the point of total extinction—in the number of fish in many lakes and

streams. Evidence suggests that acid rain is changing the soil's chemical structure in some areas, and even forest growth has been significantly decreased. Degradation of buildings and our national monuments have been attributed to the detrimental effects of acid rain. It must be emphasized, however, that the information base and understanding of the acid rain phenomenon and its full impact on our environment is incomplete.

Finally, Mr. Speaker, I want to offer my strong support for title II, which addresses "biomass energy and alcohol fuels." I believe that the Congress must be committed to a national program for reducing the dependence of the United States on imported petroleum; and that commitment must include maximum utilization of agricultural crops and agricultural wastes and residues.

I have said before, and I say again, "It is time to bite the bullet." The stakes of uncertainty are far too high. With this legislation, we in the Congress are indicating our commitment and determination to move in the direction of a partnership between Government and the private sector in applying our scientific technology and engineering expertise to bring energy self-sufficiency for the United States closer to reality.

Our continuing challenge will be to make certain that the principal thrust of our synthetic fuel development effort takes place in the private sector. If we meet this challenge we can be successful in moving toward energy self-sufficiency and independence.

This will be the major challenge of this Congress and Congresses of the future. America's economic and security requirements are the high stakes in this most complex and demanding decade of the 1980's.

Mr. MCKINNEY. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague for yielding.

I have been amazed to sit here and listen today to all of my good colleagues come up here and say, "Well, this is not a very good bill; it is not a perfect bill. As a matter of fact, there are a lot of defects, but I am going to go ahead and do it anyway." That reminds me several years ago when we had the bill out of the Committee on Banking, Finance, and Urban Affairs to try and enhance a settlement procedure for homes, and it was called RESPA, and we were told that that was going to solve all of the problems, and we had to come back here and almost repeal it because it was so bad.

The problem with this legislation, having listened, and I began to add up all the people who got up and spoke for it and said, "However, it has this defect" or "that defect," and "I really do not like this title" or "that title, but, you know, we have got it, and so here we are." We have over 400 pages here, most of it never really considered by the House except maybe in a couple of subcommittees that had hearings. But we are going to go ahead and do it anyway, and we are not even sure what the total effect will be.

I would like to quote one of my colleagues from the Committee on Interstate and Foreign Commerce who has studied and followed this legislation, the gentleman from Michigan (Mr. Stockman).

Mr. Stockman states:

A crash program of this kind would have virtually no impact on the OPEC oil cartel's power in the 1980's and little impact in the 1990's. It would not signif-

icantly enhance our national security or our energy independence. It would not lower the current high world oil price or appreciably slow future price increases. Most important, it would not reduce our vulnerability to Iranian type oil supply interruptions resulting from political instability, which are currently at the heart of our problem.

I ask my colleague from Pennsylvania, who I know has spent a lot of time on this legislation: Is my colleague from Michigan just totally wrong? Does he not know what he is talking about, or is he just misreading this fat and expensive bill?

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Of course I yield.

Mr. MOORHEAD of Pennsylvania. This bill is designed to produce, by 1987, the oil equivalent of at least 500,000 barrels of oil a day. We are now importing about 8 million.

Mr. ROUSSELOT. The gentleman from Michigan says that at most it would probably produce 2 million to 4 million barrels a day of synthetic fuel. Is that wrong?

Mr. MOORHEAD of Pennsylvania. Is he talking about per day?

Mr. ROUSSELOT. Yes.

Mr. MOORHEAD of Pennsylvania. The production of 2 million barrels of oil equivalent of synthetic fuel would amount to one-quarter of our total imports now.

Mr. ROUSSELOT. By 1987?

Mr. MOORHEAD of Pennsylvania. No, by 1992.

Mr. ROUSSELOT. By 1992. That is a long way in the future.

Mr. MOORHEAD of Pennsylvania. I will not be in the House then.

Mr. ROUSSELOT. Is that going to help our current problem?

Mr. MOORHEAD of Pennsylvania. If the gentleman will yield further?

Mr. ROUSSELOT. Of course, I will yield.

Mr. MOORHEAD of Pennsylvania. We should have started this years ago.

Mr. ROUSSELOT. I have heard that and I understand that point. That is what my colleague from Ohio (Mr. Wylie) told me. "What is your alternative," he says. I remember we were told that when we were given the Department of Energy. Will this be any better than the Department of Energy?

Mr. MOORHEAD of Pennsylvania. Of course it will.

Mr. ROUSSELOT. It will?

Mr. MOORHEAD of Pennsylvania. This institution and the Defense Production Act rely upon the private enterprise system, and that is the main thrust of the structure of this bill.

Mr. ROUSSELOT. So does the DOE. I just read in the paper they have all of those contracts out there that they have sent out and everyone tells me here on the floor everyday about how bad the Department of Energy is. Of course, I did not vote for it, so I do not carry that responsibility of that terrible bureaucracy.

Now, can my colleague tell me how is this bureaucracy that we are building here going to be any better than DOE?

Mr. GORE. Will the gentleman yield to me?

Mr. ROUSSELOT. Let me yield to my colleague, the author of the bill, because I know he spent a lot of time on this.

Mr. McKINNEY. Would the gentleman yield to me as a coauthor?

Mr. ROUSSELOT. In just a minute.

Mr. MOORHEAD of Pennsylvania. Under the Defense Production Act the primary agency will be the Defense Department, which has been in the business of procuring for many years.

Mr. ROUSSELOT. The Defense Department is going to have the biggest input on this?

Mr. MOORHEAD of Pennsylvania. The Defense Department, I am told, is ready as soon as this bill is passed.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield 2 minutes to the gentleman from Tennessee (Mr. Gore).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. GORE. I thank the gentleman for yielding.

Mr. Speaker, I would like to offer a response to the question that was just posed. First of all, was our colleague from Michigan wrong? The answer to that question is very simple: Yes. Our colleague was wrong in his assessment of the bill.

Second, how will this bill improve the current situation? The answer to that is in two parts.

To begin with, the production of synthetic fuels at the rate of 2 million barrels per day within a few years will obviously be a tremendous improvement over the current situation. In the second place, this program will have an immediate effect on the OPEC cartel because we are establishing the capacity to turn our domestic resources into liquid fuels that can be substituted for foreign oil.

To the extent that the foreign oil-producing nations realize that the United States now has the will and the capacity to develop its domestic resources and turn them into a form that can be used as substitutes for their oil, they must take that into consideration in their pricing policies and in their production policies. So even though we have to wait a few years to get the actual product out of these plants, it has an immediate impact because we are sending them a message that shows our determination to produce substitutes for foreign oil.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield briefly?

Mr. GORE. I will be glad to yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding. Those are the same arguments we have heard from the Department of Energy. It was going to do all of these same things. My concern is how do we know by creating another bureaucracy that that is going to be any better than the Department of Energy? I do not really think that has been answered.

I remember my colleagues, the gentleman from Michigan (Mr. Stockman) and the gentleman from Ohio (Mr. Brown), and many others raised that concern about the Department of Energy, and actually we have gotten zero. That is my concern about this agency.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield such time as he may consume to the gentleman from New York (Mr. Weiss).

The SPEAKER BY REQUEST is their objection to the request of the gentleman from Michigan?

There was no objection.

(Mr. Weiss asked and was given permission to retire and extend his remarks.)

Mr. Weiss. I thank my distinguished colleague for talking.

Mr. Speaker, I rise in opposition to the bill. The bill is a very important one. Much as I recognize the absolute necessity of reducing the Nation's dependence on imported oil, I must also insist that we not plunge headlong into an unproven technology without first establishing the sums that will bear the burden of the same companies who have already benefited greatly from the virtual monopoly of oil. I voted last year in favor of the House bill which was a comparatively modest measure that kept the uncertainties of investment in this industry to some extent. That bill authorized \$2 billion to start, with another \$2 billion to be added later, and covered 15 years in printed form.

But the bill we are about to vote on today would authorize \$10 billion for synthetic production in the beginning and goes on to authorize \$10 billion more. It is a bill that would authorize the production of synthetic oil at a rate of 100,000 barrels a day. It would establish a unique corporation which would operate this. It is a bill that has been written by a committee which has a few influential members. It is a bill that has been written by those who voted for the bill last year and the committee of the House which is now before the Senate. It is a bill that would authorize the production of synthetic oil at a rate of 100,000 barrels a day. It would establish a unique corporation which would operate this. It is a bill that has been written by a committee which has a few influential members. It is a bill that has been written by those who voted for the bill last year and the committee of the House which is now before the Senate.

We have seen the results of the bill in the past. It is a bill that would authorize the production of synthetic oil at a rate of 100,000 barrels a day. It would establish a unique corporation which would operate this. It is a bill that has been written by a committee which has a few influential members. It is a bill that has been written by those who voted for the bill last year and the committee of the House which is now before the Senate. It is a bill that would authorize the production of synthetic oil at a rate of 100,000 barrels a day. It would establish a unique corporation which would operate this. It is a bill that has been written by a committee which has a few influential members. It is a bill that has been written by those who voted for the bill last year and the committee of the House which is now before the Senate.

The bill would authorize the production of synthetic oil at a rate of 100,000 barrels a day. It would establish a unique corporation which would operate this. It is a bill that has been written by a committee which has a few influential members. It is a bill that has been written by those who voted for the bill last year and the committee of the House which is now before the Senate. It is a bill that would authorize the production of synthetic oil at a rate of 100,000 barrels a day. It would establish a unique corporation which would operate this. It is a bill that has been written by a committee which has a few influential members. It is a bill that has been written by those who voted for the bill last year and the committee of the House which is now before the Senate.

Before we vote on this bill, we should consider the fact that the bill would authorize the production of synthetic oil at a rate of 100,000 barrels a day. It would establish a unique corporation which would operate this. It is a bill that has been written by a committee which has a few influential members. It is a bill that has been written by those who voted for the bill last year and the committee of the House which is now before the Senate.

Instead, we should use the funds for research in petroleum. It is a bill that has been written by a committee which has a few influential members. It is a bill that has been written by those who voted for the bill last year and the committee of the House which is now before the Senate.

without highly radioactive waste products as in nuclear fission. Yet we appropriated just \$394 million for the next fiscal year in Tuesday's vote on fusion research support.

Fusion. I should remind my colleagues, may not only shoulder a major share of our energy burden, but would also pose virtually no threat of a meltdown or similar disaster. In fact, the major problem for scientists is preventing the reaction from completely expiring. Fusion may even lend itself to synthetic fuel production, as a bill we will consider next week suggests (H.R. 6308).

Fusion is an appropriate area for a reasonable increase in funding. I heartily endorse the recent recommendation to double our research expenditures for fusion made by the Energy Research Advisory Board's Fusion Review Panel.

But even fusion does not require the staggering amounts of money proposed for synthetic fuels. Let us authorize appropriate, measured amounts for promising energy programs, such as conservation; solar power; biomass; environmentally responsible coal conversion; fusion, and a well-modulated synfuels program. All in all, we probably would save money compared to this omnibus bill's proposal.

I hope my colleagues will join me in voting against S. 932, and work together to forge a sensible energy program.

Mr. McKINNEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. Gilman).

(Mr. Gilman asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the Energy Security Act, S. 932.

Mr. Speaker, the latter half of the 20th century could justifiably be referred to as the age of synthetics. Since World War II, people have for the first time come to rely on petrochemically based synthetic materials as a larger source of their energy and material supply. Although natural materials such as cotton, wood, and rubber still maintain a vital role in the world economy, their position is slowly being usurped. Today, over one-third of the fiber used in the world and 70 percent of the rubber is synthetic. Plastics have substituted everything from paper packaging to the grass turf on football fields. Now, the gas era and the synthetics era appear to be coinciding in terms of their importance.

Accordingly, a comprehensive national energy policy must consider a variety of energy resources, including synfuels, to meet future energy needs. The development of a major synfuel industry in the United States will require participation and cooperation of all levels of government and private industry. The bill we are considering today is designed to do just that, by way of authorizing \$25 billion in fiscal years 1981 through 1985 for the following:

A \$20 billion synthetic fuels production program, to be dispensed by a new U.S. Synthetic Fuels Corporation, in the form of loans, loan guarantees, purchase agreements, and price guarantees to encourage synfuel production at the nationally set goal of at least 500,000 barrels per day crude oil equivalent by 1987, and at least 2 million barrels per day equivalent by 1992.

Synthetic fuels to be fostered by the corporation would include oil from coal, peat, shale or tar sands; methyl alcohol from coal; hy-

drogen from water and magnetohydrodynamics processes for electrical generation.

A \$1.4 billion biomass program with provisions to encourage municipalities to convert waste to energy, a catch-all word for organic material such as wood, agricultural products, sewage and garbage.

An energy bank funded at \$3 billion to make loans and grants for solar and conservation work in homes, small apartments and small commercial buildings.

Other conservation methods, including home energy audits by electrical utilities.

New incentives for geothermal energy; a very underrated energy option.

Studies of the environmental effects of the fossil fuel burning and the dangers of so-called acid rain.

Mr. Speaker, this bill may well mark the beginning of a true beginning toward energy independence despite the fact that it has been a long time in coming. The first oil shock, in late 1973 and early 1974, definitely marked the end of the era of secure and cheap oil. The long string of international events since that time most certainly adds credence to that statement. Our country has been subjected to repeated price hikes that have taken their toll on every American consumer, and with little optimism in store for the future. Indeed, OPEC has just recently lifted the ceiling price on crude oil and all their members are charging whatever the traffic will bear.

Our Nation's honor and credibility has been challenged at every turn in the road, most recently in Iran, which has not only threatened us with oil blackmail, but overran our Embassy as well and is holding our personnel hostage to this very day. In short, the events following the oil crisis of 1974 have constituted a turning point in postwar history, delivering a powerful economic and political shock to the entire world. It has slowed down our economic growth. It has set into motion a drastic shift in world power. It has severely undermined our national security interest the world over and, finally, it has made us even more dependent upon the political instability of oil-exporting countries. This point must be underscored.

Considering current problems, for the United States to depend on Middle East oil means heavy reliance on a region of high risk. In the last three decades, the Middle East has been subjected to a half-dozen wars, several revolutions, assassinations and territorial disputes. Such dependence translates into interruption of supplies and major price increases. To continue importing oil in ever-increasing quantities from this arena can only lead to a damaging of our economy and security, not to mention the constraint on our foreign policy by our oil suppliers.

When we consider the energy crisis in this light, it is not imprudent to spend an admittedly high sum of \$25 billion for the energy goals outlined in this bill. The alternative price is, obviously, much higher and in my opinion totally unacceptable. There are those who argue that, in time, the world oil market will stabilize and that prices will have to drop out of economic necessity. This is not a new argument. In fact, it is the same argument that was used back in 1974 during the first oil crisis when our energy crisis was considered by some as only tempo-

rary—a passing wind of strain and adjustment. I would say to those opponents today that to make that same mistake in judgment and action would be foolhardy at best.

The time has come for the American people and the Federal Government to undertake a new initiative and to begin some active endeavors to repair the damages that have been done to our country since that first warning of energy sabotage 6 years ago; and we can begin right now by supporting this omnibus energy bill. It has emerged from its 7-month long conference where it was subjected to intensive scrutiny by many experts in the field of energy, management and Federal and industrial agencies. It has the basic outline so desperately needed for our first major effort in our entire history to become completely independent of foreign energy sources.

Quite ironically, it was Dmitri Mendeleev, the Russian chemist who first mapped out the periodic table of elements, who was so impressed by petroleum's potential as a raw material for the chemical industry that he warned that burning it as a fuel "would be akin to firing up a kitchen stove with bank notes." Mendeleev's metaphor correctly points out the direction we have been heading, moreover, it should serve as a warning to those of us who are reluctant to vote for the bill because of a lack of absolute perfection, that the Soviets, too, within this decade, will become major oil importers. Accordingly, Mr. Speaker, I urge my colleagues on both sides of the aisle to support this measure that is so vitally important to our Nation.

Mr. McKINNEY. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. McDade), a member of the Appropriations Committee.

(Mr. McDade asked and was given permission to revise and extend his remarks.)

Mr. McDade. Mr. Speaker, I rise in support of this conference report and pay special tribute to my colleague, the gentleman from Pennsylvania (Mr. Moorhead), who has played such an important role in this legislation, and my colleague, the gentleman from Connecticut (Mr. McKinney). But I do feel constrained to point out that there are some troublesome features going on on both sides of the Capitol that Members ought to be aware of. My friend, the gentleman from Pennsylvania (Mr. Moorhead), and my friend, the gentleman from Connecticut (Mr. McKinney), worked very hard some time ago to establish authority for synthetic fuels under the Defense Production Act. That authority is in place and extant. Two years ago the Appropriations Committee, specifically the Subcommittee on Interior, wrote an energy bill mandating, not authorizing, the Secretary of Energy to meet specific goals to secure production of alternative sources of fuels.

That authority set up another mechanism to fund alternative fuels and it does virtually everything that the guts of this corporation does except for permitting GOCO's (Government owned contractor operated plants). We did not have GOCO's in our language. What has the result been? The result has been that there are now pending downtown over 950 bids of people who want to come in and produce synthetic fuels in this Nation. Since June 1, the Department has been prepared to go out with one of the largest request for proposals, probably

in the history of this Nation, soliciting from the private side competitive bids to produce products down into the 1980's, and that is all to the good, and it did not result from anything except the work of the Defense Production Act, the Banking Committee, and the Appropriations Committee working together to move forward on energy alternatives.

Now I am concerned that there has been some effort to tamper with the interim authorities because everyone sitting here knows that this Corporation will not be in existence for some time. No one knows how long it will take. It may take 2 years. What we do know is that the authorities to proceed are in the law today and they are working, are there. The RFP could have been issued by the Department of Energy on June 1, but for some mysterious reason that RFP never appeared.

Let me tell my friends in the House that there is a cannon pointed at your heads called the supplemental appropriations bill, in which the other body has appropriated every single dollar in the reserve fund to this Corporation—every single penny—almost \$20 billion.

The administration has to get Senate confirmation for four Board members of the Corporation. The Corporation has no staff. They have nowhere even to hang their hats as yet. Yet the other body has put in all the money, \$20 billion for the Corporation, and if they prevail, you will not see this Corporation ever again. This House and the other body will lose totally any control, any opportunity to review the processes that are so vital to the work begun by my two friends and by my colleagues on the Appropriations Committee as we try to get this Nation over the hill in the energy program. So watch the scenario next week. We have got an urgent supplemental. Think of what was in it. Do you remember food stamps? Unemployment compensation? Do you remember trade adjustment? All of those things are in the supplemental, and you have been told we are going to finish this before we leave. So, held hostage potentially will be an effort to say to this House, yield to the Senate position. If you do you will never see this Corporation again because the Senate has already appropriated all the money.

Certainly you have to pass this urgent appropriation because of the food stamps and because of all the other programs that are in it. So get ready, because you are going to be faced, I am afraid, with a Hobson's choice on whether or not this House is going to be dealt a blow from within, in effect abolishing the people's branch, instead of having a procedure which we set, an orderly way to have the private side come in, to have them make competitive bids, to have them come into the Department either using the Defense Production Act or the authorities which we gave them in the appropriations and appropriated last year—\$2.2 billion, and just this morning \$4 billion—in order to carry that out. And to make them bid competitively subject, my colleagues, subject to the will of this House, as Representatives of the people of this Nation. That is a responsibility we should not relinquish.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. McKINNEY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. Walker).

Mr. WALKER. I thank the gentleman for yielding to me because it seems to me, as I have listened to the debate, that we are hearing that only through this bill will we get a synfuels policy in this country. It

seems to me that there are some other alternatives available that do not go this massive regulatory route. For instance, it seems to me that we could have mandated a percentage of refined product. People testifying before the Committee on Science and Technology have stated that by the year 1985 to 1987, if you mandated 5 percent of refined product must contain synthetic fuels, that you could easily attain the kind of goals that are set out in this particular program and perhaps exceed them. Why did we not take the real private enterprise route? Why not guarantee a continuing market with a marketplace mandate? Why do we always go the "big government" route? The legislation we are considering is a "big government" program, and I think it will ill-serve synfuels policy over the long haul. A synthetic fuels program is necessary, but it should be the right program, not this collection of misguided hopes and burdensome regulation.

Mr. McKINNEY. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. Wylie).

(Mr. Wylie asked and was given permission to revise and extend his remarks.)

Mr. WYLIE. I thank the gentleman for yielding.

If the programs contemplated by this bill succeed, it will be a major victory for our country. I happen to think that there is a good chance that the programs which we are contemplating in this bill will succeed; otherwise I would not support it with the vigor I have. I would suppose that now energy is our most serious problem. It exacerbates inflation. It threatens our national security. We need to do whatever we can to control our energy destiny today. I think this bill holds enough promise in this regard to warrant support. To vote this bill down is to, in effect, continue to do nothing in synthetic fuels. This is a luxury we can no longer afford. No one knows what the total effect will be, but I come down on the side of erring—if we are—on the side of moving ahead.

I think it can help reduce our dependence on OPEC oil. In any event—to those who say vote no—I have heard no suggested alternatives, which amounts to continued reliance on the Arabs.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield myself 7 minutes.

(Mr. Moorhead of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, because I was chairman of the conference committee, it appears to me there are a few points in our debate today that perhaps need some clarification.

My first point concerns the money involved. This legislation, while it authorizes more money than the legislation we passed one year ago, uses exactly the same techniques: price guarantees, loan guarantees and direct loans. They also are in that order of priority in the legislation. If we go the reverse way, yes, direct loans do require an immediate outlay, but we would expect that the loans would be made intelligently and be repaid; hence, there would be no ultimate cost to the taxpayer.

Now let us consider the loan guarantees. There are no immediate outlays and again if the loans were made in a businesslike fashion.

they would be repaid. One of the reasons for establishing a Synthetic Fuels Corporation is to try to convey the idea that we want the loan guarantees to be made on a businesslike basis.

The third technique is the one to which we give top priority and it includes purchase agreements with price guarantees.

In the event that the price of natural oil continues to go up and the contract is for a higher price than the market value today but lower than the market value at the time the synthetic fuel is delivered, there is not only no cost to the taxpayer, there is actually a saving.

The only way there will be an outflow under price guarantees is if the OPEC countries should drop their prices. Then there would be a cost to the taxpayer, but think of the benefit to our economy. The dollars would stay at home instead of flowing overseas.

I say to you, Mr. Speaker, this is a no-lose proposition.

Another question is this: because most of this money will be private money, can the capital markets afford it? The answer is obviously yes. This is for investment in the United States to replace the \$90 billion per year of expenditures abroad for which we buy foreign oil but get no other benefits. We would rather spend money to build something here that keeps our dollars at home rather than have them go abroad.

Mr. Speaker, the private capital market can stand this and should stand it.

There also has been some question raised about the status of the U.S. Synthetic Fuels Corporation. As everybody knows, corporations can be formed under general enabling statutes, in which case you have articles of incorporation, or they can be created by special legislation, in which case the terms of the legislation constitute the articles of incorporation. Because we established a Corporation in this legislation and we had to provide in effect for the articles of incorporation, this legislation is lengthier than the legislation passed by the House of Representatives 1 year ago.

A question has been raised about whether the Congress has retained control over this Corporation. We started out intending to have an independent Corporation and then out of, I am afraid, almost an overabundance of caution, provided a great deal of control. We provided for an Inspector General and a Deputy Inspector General. Directors and officers are subject to the same conflict of interest laws as govern Federal employees. Activities of the Corporation are subject to the same basic standards of the Sunshine Act and the Freedom of Information Act. The Attorney General and the Comptroller can sue the Corporation. The Corporation is audited annually by independent auditors. The General Accounting Office is authorized to audit it and the Corporation is required to make numerous reports, quarterly and annually, to the Congress.

Mr. Speaker, I ask unanimous consent to insert in the Record a table showing a number of other congressional controls.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The table referred to follows:

ACTIONS IN TITLE I REQUIRING CONGRESSIONAL CONSIDERATION UNDER SPECIAL PROCEDURES

TYPE OF ACTION AND REVIEW PROCEDURES

Part B

Phase II Comprehensive Strategy: Joint Resolution of Approval (126(c)).
 Incremental Authorization: Jt. Res. of Approval (126(c)).
 Amendments to Phase I strategy altering use of funds previously authorized:
 Concurrent Resolution of approval (Sec. 129).
 Extension of time on Phase II comprehensive strategy: 1-House resolution of disapproval (Sec. 128).
 Cost overruns (over 250 percent for loans and loan guarantees, over 175 percent for Goco's): 1-House resolution of disapproval (Sec. 128).
 Acquisition of control of projects: 1-House resolution of disapproval (Sec. 128).
 Lease-back of acquired projects: 1-House resolution of disapproval (Sec. 128).
 Western Hemisphere projects: 1-House resolution of disapproval (Sec. 128).

Part A

Invocation of "standby" authorities; 1-House resolution of disapproval in 30 days, or earlier approval by resolution of both Houses (Sec. 307).
 Loans and loan guarantees exceeding specified amounts; 60-day 1-House resolution of disapproval, not privileged, no discharge provision.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, if we have made any mistake, we have placed too many restrictions on this Corporation.

Mr. Speaker, now on another point, I would like to read a letter to me from Mr. Franklin Lindsay, chairman of the Itek Corp., who is chairman of an energy task force for the Committee on Economic Development.

The letter reads as follows:

DEAR MR. CHAIRMAN: I want to salute you and your colleagues on the successful completion of the House-Senate conference on S. 932. This monumental legislation can help provide a new energy security for the nation by increasing domestic energy supplies and reducing our dependence on imported oil. Your leadership has insured that synthetic fuels will play an important role in overall U.S. energy strategy.

With this legislation, and the impending passage of S. 1308, I am convinced the private sector is prepared to build and operate a number of plants that will demonstrate the commercial feasibility of converting coal and oil shale into synthetic oil and gas. As we testified before your committee, plenty of private money will be available once the excessive risks are reduced. But placing primary reliance on the market system, your legislation establishes the most efficient and effective means of bringing these plants into commercial operation in the shortest time at the lowest public cost. Your resolve to provide a limited number of financing incentives and set firm dollar and size limits has insured that the government will assume only those risks that are too large for private industry to assume alone. Your authorization of the development of a limited number of synthetic fuel plants in the private sector to demonstrate the technology, environmental effects, and economic viability of various synthetic fuel options, will provide a strong foundation for subsequent rapid expansion, should that be necessary.

These concepts were fundamental to the proposals recommended by the Committee for Economic Development in its 1979 policy statement, "Helping Insure Our Energy Future: A Program for Developing Synthetic Fuel Plants Now." We felt then and feel even more strongly now that having the commercial capability to produce synthetic fuels will bolster this country's international economic and political position by demonstrating to the world a new U.S. resolve to take charge of its energy future.

I congratulate you and your colleagues on a job well done.

Mr. Speaker, the gentleman from Ohio (Mr. Brown), has made a number of criticisms of S. 932 today and in a previous "Dear Colleague" letter, and I would like to reply to them.

He refers to the Corporation as "legally undefined." I think the Corporation is quite legally defined within the many pages of the very legislation before us. The idea may be difficult to fully comprehend, but this is a new one-of-a-kind Federal entity for a special purpose and with a set lifetime.

Now when the gentleman refers to \$20 billion and then an additional \$68 billion as if these were sums of money the U.S. Government is actually going to spend, I must respectfully disagree. These sums represent mostly private capital which will be generated into synthetic fuels development through the use of various Federal guarantees.

These sums will be spent only if everything completely fails, but with the skyrocketing prices of foreign oil I think that is hardly likely or even a possibility.

The \$20 billion authorization is contained in this bill but it is subject to the appropriations process. The sum really is a set-aside in the unlikely event the program is a total failure and we cannot even recover a nickel of our investment. However, as each contract or guarantee is made, the amount of money is deducted from the total authorization dollar-for-dollar to the maximum liability and cannot be used again. In effect, it is a bookkeeping scorecard.

The gentleman from Ohio talked about the filling of the strategic petroleum reserve and that this might cost the taxpayers up to half a cent a gallon. In my view, that is a pretty good investment for the protection of our national security. Considering that a gallon of Coca-Cola costs more than a gallon of gasoline, it is helpful to get some of these things in perspective.

Mr. Speaker, the U.S. Synthetic Fuels Corporation created by this legislation is an independent Federal entity—a sui generis entity, if you will. This was done deliberately. The conferees determined that the energy situation facing our country today is so serious, and the need to act quickly to initiate a synthetic fuels industry so pressing, that we simply cannot afford the time-consuming, redtape-involving, Government-as-usual approach to this problem.

We believe that the Corporation has to have the ability to act quickly and independent of the usual strictures under which Government agencies operate. At the same time, we simply have to trust the President will appoint men and women of good will who share the deep concern we have about our energy situation—men and women who will carry out their activities for the Corporation responsibly and honestly, and whose abiding motivation will be to get the job done well and in conformance with the purpose of the legislation. I believe that will be the case, and I think most of my colleagues do also.

Having said that, Mr. Speaker, I must point out that it is simply not true that the legislation lacks specifics to control the Corporation. S. 932 contains the following provisions for oversight of the Corporation's activities:

There is provision for an Inspector General and a Deputy Inspector General, and with very specific authorities and responsibilities spelled out in the legislation;

Directors, officers and employees of the Corporation are subject to the same conflict-of-interest laws as govern Federal employees;

Activities of the Corporation are subject to the standards of the Sunshine Act and the Freedom of Information Act;

The Attorney General and the Comptroller General are empowered to bring suit against the Corporation for violation of any of the provisions of its charter, that is, this legislation;

The Corporation is required to be audited annually by independent auditors;

The General Accounting Office is authorized to audit the Corporation at its discretion, and must do so at least every 3 years; and finally; and

The Corporation is required to make numerous reports to Congress.

It seems to me, Mr. Speaker, this list represents an effective means for Congress and the American taxpayers to keep track of the Corporation's activities, and to prevent and remedy any possible abuses of its congressional mandate.

I can understand the gentleman's (Mr. Brown of Ohio) concern that by amending the National Energy Act to permit utilities to supply and install energy conserving measures, Congress might be permitting utilities to monopolize the conservation business. This issue was of prime concern to all of the House conferees. Let me assure you that only when the majority of those conferees were convinced that the restrictions we placed on utility involvement in this area would safeguard a competitive market did we approve the compromise contained in S. 932.

Many provisions are contained in the conference report which are designed to assure that utility supply or installation programs will not have an anticompetitive impact particularly on the smaller conservation businesses that are active in a utility's service area. These provisions include the requirements that:

First. Utility programs must be undertaken through independent suppliers and contractors who are not under the control of the utility except as to the performance of their contracts and who are selected in an open, and nondiscriminatory manner from the State list required by the NECPA utility program;

Second. No supplier or contractor may gain an unreasonable share of the utility's contracts;

Third. No utility program may involve unfair methods of competition or have a substantial adverse effect upon competition;

Fourth. Where a utility offers financing in connection with a supply or installation program, such financing must also be made available for work done by individual customers themselves or by contractors not involved in the utility's program;

Fifth. No utility program may be initiated until the State has submitted, and DOE has approved, an amendment to the State residential conservation service plan which contains provisions to assure that any utility program will be undertaken in full compliance with the conditions previously enumerated;

Sixth. Finally, the Secretary of Energy, in consultation with the FTC, will be required to monitor utility financing, supply and installation programs. If any program results in an adverse effect on

competition or in violations of the requirements mentioned earlier, the Secretary of DOE may, after notice and public hearing, terminate the program.

The conferees have recognized the great potential for encouraging energy conservation that exists in utility involvement in the financing, supply and installation of energy conserving measures. We have removed several obstacles in law that would prevent successful programs, like the one operated by Portland Power and Light Co., from being initiated. However, the legislation before us also includes a number of safeguards to assure that utility participation in the national conservation effort will not damage competition at the local level.

Mr. Speaker, I yield back the balance of my time.

Mr. McKINNEY. Mr. Speaker, it is a pleasure for me to yield 3 minutes to the committee chairman, the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. Mr. Speaker, the best energy studies we have available show that by the year 2000, two-thirds of the energy in this country will come from coal. Today we are producing the same amount of coal we produced in 1948. We could produce next year 200 million more tons of coal without straining the capacity of the coal industry anywhere. These arguments I have heard today were made back in 1953, except there was a better way and a cheaper way to make synthetic fuels at that time. Naturally, there is nothing else here to do except accept this conference report. It is a great step forward.

Mr. Speaker, if I had jurisdiction over this legislation, it would be entirely different. I would utilize these chemical engineers who were present during World War II and who helped set up the synthetic liquid fuel plants during the war. There are several of them around today. They tell us that we should be working around the clock on a national emergency basis with the best businessmen of the country operating the Corporation, turn them loose, that can do the job, let the Government do some constructing themselves as a yardstick, just like they did TVA and not turn the oil companies loose and let them foul this thing up just like they fouled the whole thing up in 1953 in closing down all the demonstration plants.

Mr. GORE. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Speaker, I would like to pay tribute to the gentleman in the well, because in preparation for my work on this conference committee I did extensive research into the history of the synthetic fuels effort in this country.

I ran across remarks made by the gentleman back when President Truman's synthetic fuels program in the early 1950's was dismantled when the new administration took power, and the gentleman stood up and eloquently told his colleagues at that time that this was a terrible mistake that the country would one day regret. The gentleman's prophecy has turned out to be true, and we are now having to undertake that effort as a catch-up in order to redress the shortsighted decisions that were made over the objections of the gentleman in the early 1950's.

Mr. PERKINS. Mr. Speaker, I want to compliment the gentleman from Tennessee for his work on the bill. This is the greatest step for-

ward that the Congress has ever taken toward the development of synthetic fuels. My only quarrel with the conference report is that it does not go far enough and carries too many restrictions. There should be more incentives and a greater amount of funds authorized. A chemical engineer who helped develop synthetic rubber tells me we need at least one hundred billion dollars and work on a national emergency basis if we want to develop five million barrels a day by 1990. I feel confident that the committees that have jurisdiction will have to get together again within the next few years because we will continue to be bled by the OPEC countries and doing too little about it.

In conclusion, let me say it is a grave mistake not to go on a much larger basis of synthetic fuels at the present time, since we have all the know-how and expertise that is necessary on a commercial basis.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from South Dakota (Mr. Daschle).

(Mr. Daschle asked and was given permission to revise and extend his remarks.)

Mr. DASCHLE. Mr. Speaker, the United States today sits in a very awkward position so far as alcohol fuels are concerned. It is a position that cannot be explained to farmers in my district, or really to any American concerned about the high price and limited supply of liquid fuels we face in this decade.

As of this moment our country sits with massive supplies of embargoed grains depressing our farm prices and clogging our storage and shipping facilities. We sit with demonstrated technology to produce alcohol fuel from these grains at competitive prices. We sit with huge and growing bills for imported oil and a stated national policy of seeking to reduce these imports. And, incredibly, we sit in an importing posture where alcohol fuel is concerned.

In April alone the United States imported some 12 million gallons of fuel alcohol, mostly from Brazil.

The alcohol fuels provisions of this bill are specifically designed to put an end to this totally nonsensical situation. They are designed to provide the startup loans and loan guarantees that will permit construction of an American alcohol fuels industry.

The United States enjoys the most productive agricultural machine in the history of man. We suffer critical shortages of domestically produced liquid fuel. Yet, until today, our Government has done virtually nothing to unleash the productivity of our farm sector on this problem of liquid fuel shortages.

It is particularly painful to those of us who have examined the historical record that we have waited so long to act. For fully 80 years it has been a known fact that fuel alcohol from biomass sources is a technologically viable alternative to gasoline. Henry Ford knew it and fought for a lifetime to see alcohol used as a fuel. Brazil knows it and now leads the world in production and use of fuel alcohol. Ford, General Motors, and Chrysler all know it and produce standard automobiles capable of running on pure alcohol for sale today in Brazil.

The Midwest, and to a growing extent the entire Nation, is alive with excitement over the potential of alcohol fuel produced from biomass sources. On individual farms, in small communities and among large commercial investors alike, plans are waiting and ready to go.

building about energy: I think it is an amazing fact that we have a bill here today. There were 35 Senators, over one-third of the U.S. Senate, on one conference committee.

Obviously, compromises were made, but I seriously think that the chairman, the majority leader, myself and all the other conferees and the staff, without whom we could have done nothing, brought out a far better piece of legislation than either House took into the original meeting.

A lot has been said here, Mr. Speaker, about the money. I find it somewhat farcical that we can talk about a \$20 billion expenditure to save the United States of America when we willingly talk about \$140 billion for defense and when just this week we voted money to register young men. Let's face it, there is only one reason we are registering those young men, and that is because we are afraid of what is going to happen to our oil supply. We are being blackmailed by every third-rate nation.

Many of my conservative friends up here often quote, "The Committee for Economic Development." Here is just a short list from that committee's booklet which I would like to read outlining the foreign policy implications of this Nation's absolute and utter dependence on oil from other sources:

The Soviet role in the Middle East.

Proliferation of nuclear-explosive materials.

Overflight and landing rights for military supply in the Middle East.

Advanced armaments for Persian Gulf countries.

Japanese-Arab relations.

Economic development of Third World countries.

Chinese-Japanese trade relations.

Stability of international capital markets.

Brazilian-American nuclear energy relations.

French cooperation with NATO.

Cuban intervention in the Horn of Africa.

Arab-Israeli peace negotiations.

The danger of a disrupted oil supply as a political move, as an economic strategy, or from sabotage, war, or overthrow of regimes in the Middle East.

It goes on and on and on. In other words, the future of the civilized world as we know it is put in jeopardy because one of the world's greatest leaders is not a leader anymore. Our own friends, the Saudi Arabians, seriously question their alinement and their dedication to the United States of America. Russia, within this decade, will be an oil-importing nation. Hence the Saudis, having witnessed our performance in Afghanistan, having witnessed our performance in Iran, having witnessed our performance in Cuba, and having witnessed our performance in the Horn of Africa, strongly question whether or not start making friends with the Russians, for a guarantee of non-interference and allowing the Saudi Arabian Government to stand.

We sit here as a nation declaring that we are the leaders of the free world; yet, if our energy were cut off tomorrow, we could not lead anything. We sit here receiving testimony from the Defense Department, from the Treasury Department, and from the GAO, telling us that we really do not have any options. Could we save the Saudi Arabians today? I doubt it. Could we save an Israel today? I doubt it.

Our energy situation has put us in an intolerable position. We can do what the British did in the Suez, which is declare a victory and

leave. Or, we can ~~take the~~ imposed option. But those are our options because we do not have the ability. We do not have the power, we do not have the energy to sustain this country's position in the world.

Our European allies have been much as told the President to pack his bags and go home—home, not that said. Why? They see a nation where the economy is out of control, where energy is out of control, where our foreign policy is out of control, and they realize that the whole Western Hemisphere depends on their national defense, every thing is based on the U.S. economy and its strength.

We sit here and talk about \$2 billion when we are going to throw \$30 to \$40 billion of American money across the sea to nations who really do not want it. This is a costly business in deteriorating and destroying the American economy and American power.

YOU KNOW, MR. STAGER, I HAVE BEEN IN THE RECORD, AND I WILL ASK UNANIMOUS CONSENT TO PUT IN THE RECORD, REPORT AFTER REPORT—I HAVE AN OFFICE FULL OF THEM—I WANT TO. THE TREASURY DEPARTMENT IS TELLING US WE CANNOT EXIST. RAIL BUREAU OF THE MANAGER IS TELLING US WE CANNOT EXIST WITHOUT MORE ENERGY. AND RAIL BUREAU AGREE LAST YEAR TESTIFYING TO THAT SAME CONCLUSION. I CAN GET THE MEMBERS' TESTIMONY FOR THESE YEARS SAYING THE SAME THING. WE BELIEVE FOR THE ECONOMIC DOWN IF IT DID NOT STRUGGLE OUT OF ENERGY PROBLEM.

Sure there are problems in the oil market here," said the oil socialist, the 1983-84 executive director, who in 1980 again quoted from an early issue of the Journal as "Chairman" of the Committee on the "Committee on Economic Development," when the

Since it is desirable to have the Federal Government's policy in being sympathetic for introduction of the commercial development stage as early as possible, it is important that the potential future work of the Office for Atomic Energy be involved in the future development of the atomic technology. Such as work is conducted with a view to creating a better understanding of the nation as a whole that the project in the future, through the transfer of technology through the workings of the United States High-

The statement was made in order to help the car well known for their belief in the company—the president of Ford Motors the vice president of General Motors. It is not true and is on

I want once more to thank the staff on the majority side and the staff on the minority side. I say "Thank you for the weekends that were destroyed and for the nights spent that were destroyed." And I thank my chairman for the opportunity of working on a bill that will be remembered in the long run when my children will look back and say, "It saved the Nation."

Mr. MORRELL of Pennsylvania. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana. Mr. FRANK

(Mr. Evans of Indiana asked and was given permission to revise and extend his remarks.)

Mr. EVANS of Indiana. Mr. Speaker, I rise in support of this bill because it recognizes that the current situation is a genuine threat to this Nation's security. As one who helped write this legislation in my Economic Stabilization Subcommittee, I believe the best immediate attack on this problem is to accelerate development of synthetic fuels as recommended by the Defense Department. Energy resources are our major defense material problem today and we are, therefore, amending the 1950 Defense Production Act. Under present Mideast conditions,

we are not assured of secure adequate oil supplies for both peacetime operations and war reserve military needs. To spend \$155 billion on defense without developing domestic sources to fuel our military forces and their industrial base makes little sense.

It is important to understand that this measure deals primarily with military needs since perhaps the gravest danger facing us today, both militarily and economically, is our reliance upon an interruptable supply of imported oil. The synfuels part of this legislation is not a research and development bill, it is a production bill. It gives the major role to free enterprise in providing synfuels with the primary focus on small businesses through price competition and the removal of regulatory requirements. This "made in America" energy solution has received strong bipartisan support. Without being specific, classified testimony given to me by the Defense Department justifies every drop of synthetic fuel that results from this bill for national defense.

(Mr. McKay asked and was given permission to revise and extend his remarks.)

Mr. McKay. Mr. Speaker, after almost a decade of personal frustration, I am pleased to see this body consider a full-blown Synthetic Fuels Energy Security Act. I applaud the dedication of the conferees and their determination to see this Congress move the country a step closer to energy independence.

Energy independence is energy security. Furthermore, in these times of global uncertainty, energy security has become inextricably linked to the independence of basic political and economic approaches to our own national and international problems. Every American knows how vulnerable we have become. But I also think more and more Americans are beginning to realize what we can do about it.

Even with sharp growth in nuclear power, and dramatic contributions from energy conservation, solar, geothermal, wind, and other energy technologies, our requirements for additional oil imports requirements for additional oil imports will probably swell to over four billion barrels daily by the 1990's. The only real hope for meeting this gaping shortfall is synthetic fuels.

I first began pushing synthetic fuels programs and legislation in my early terms in Congress. The obstacles were numerous. In the beginning, critics argued that the high price of synfuels relative to other fuels augured against development. Others objected to Government involvement in areas they saw as the exclusive province of private industry. A GAO report back in 1976 condemned the Moorhead-McKay synfuels program as a serious mistake. Even after Congress, in response to ever-increasing doses of OPEC extortion, came around to the view that synfuels might be part of the answer, we had difficulty in getting the appropriate departments of government to implement our desires.

As you know, Mr. Speaker, I and Mr. McDade, with tremendous help from Chairman Yates and the Interior Appropriations Subcommittee, overcame many of these kinds of obstacles in passing the McKay-McDade synfuels program last year. The response from private industry has been tremendous.

Over 950 applicants, representing the full spectrum of the energy industry, from the smallest to the largest entrepreneurs, are clamoring

for Government incentives aimed at promoting the production of synthetic fuels on a commercial-scale for the first time ever. I have spoken with dozens of representatives from these businesses. I have seen their enthusiasm. I am aware of the tremendous risks and expense many of them have incurred as a result of their dedication to the concept of commercialization in the synthetic fuels area. I am familiar with many ingenious and promising plans these entrepreneurs have submitted.

In fact, Mr. Speaker, it is my long and extensive personal experience with these individuals as well as this area of energy policy which most arouses my concern over the course the Senate has chosen to take, and the extent to which that course is reflected in the act we are considering.

It is absolutely essential that we do nothing in promoting this or any other legislation which might jeopardize the response we are experiencing in the synfuels area. We must preserve the momentum we have achieved. A disruption of the process that is presently underway will confuse, discourage, and in some instances bankrupt the very people whose support is so critical.

I support the establishment of a synthetic fuels corporation which will ultimately assume all of the functions now contained in the McKay-McDade bill. But it will be months, if not years, before that corporation is fully operational and ready to take charge of existing programs.

Therefore I am concerned that efforts may be made to prematurely transfer a significant portion of the energy security reserve to the corporation. I am also concerned about provisions which will reduce the scope and efficiency of this program such as the rejection of any leveraging in the loan guarantee program. The one-to-one reserve requirement in the loan guarantee program overstates the risk to the Government. It could also reduce the flexibility and responsiveness of program administrators, and significantly curtail the number and the size of projects that could be supported. Consequently it could retard the progress of some of the largest, most advanced, and most promising technologies.

An interim program is necessary to preserve continuity in the process and to avoid delays. Funds must be left with the Department of Energy to run the existing programs until the Synthetic Fuels Corporation gets up to speed and an orderly transfer of responsibilities can be accomplished.

Mr. ALBOSTA. Mr. Speaker, we are about to consider two of the most far-reaching initiatives we have taken up in this Congress. After years of increasing dependence on imported oil and after years of putting up with OPEC price increases; after Arab boycotts and Iranian shutoffs; after repeated threats to our economic and political independence—we have finally said “enough.”

We are about to approve a massive bill to provide alternatives to foreign oil. This ambitious program recognizes a great number of potential energy sources and I am proud to say that I followed this bill with interest and strong support from its beginning. I would like to commend the conferees for two things in particular in this bill: the first is wood energy.

The biomass title S. 932 recognizes that wood can play a great part in our energy future. Techniques are available from industries such as Morbark Industries located in my district in central Michigan, that allow environmentally sound harvesting and chipping of whole trees. This way, forests can be thinned and selectively cut on an economic basis without wasting any of the wood or bark.

High quality wood can go for traditional uses where markets exist while lower quality or waste wood can be used for other purposes. The production of energy is one of the best ways to use wood. Wood-burning electric plants are being planned in my district for instance, by such energy leaders as the Dow Corning Corp., and Wolverine Electric Co-op.

The Energy Security Act of 1980 will make funds available to encourage many forms of wood energy including direct burning of wood in many instances. It is a credit to the conference committee that they have recognized a form of energy endorsed by national figures whose philosophies differ greatly, such as Ralph Nader and Governor Reagan. It is this cooperative spirit that will lead us together out of the energy shortage we face today.

I would also commend the conferees for strengthening the program providing for solar and conservation measures in Federal buildings. Their adjustments have recognized the increasing attractiveness of these approaches. The use of cost-effective solar and conservation measures will help to achieve the President's goal of providing 20 percent of the Nation's energy from solar power by the year 2000.

Again, I am proud to say that in my district there are people in every community who are doing their best to conserve and many others who are also eager to use the power of the Sun. Small investors and major corporations, like Dow Corning again, are involved in producing solar energy equipment in central Michigan.

The solar and conservation banks will encourage investment in these two important areas. This will be investment by individuals in their own homes. Low-income people will be assisted as favorably as possible by the sliding scales for loan rates in the bill. In these provisions, we have given help where help is most deserved and most needed.

Alcohol fuels are among the most popular alternative energy supplies. Plants are being planned for my district now to bring greater energy independence and more employment to central Michigan where the unemployment rate is as much as 15 percent and most of our energy must be imported from outside of the State. The biomass title of S. 932 will be a great help in establishing numerous alcohol plants of all sizes.

Title I of S. 932 is by far the most massive. There are those who would say that coal and shale-derived synfuels are too costly and dirty. Well, there is a project in my district conducted by Dow Chemical Co. for the extraction of natural gas from Devonian shale. This process takes place far underground with relatively little pollution.

The dirtier projects will have to be watched and controlled as well as possible. But, we must remember that we can control the harmful effects of synfuels production: But we cannot so easily control the harmful and dangerous actions that might be taken by any oil exporting country or any power that might interfere with our oil supplies.

Finally, we are going ahead with our strategic petroleum reserve as immediate insurance against an oil shortage imposed by anyone. Therefore, I support S. 932, being fully aware of the costs involved in approving it but even more impressed by the costs of not approving it.

It is my hope that after we begin and after we have had a chance to evaluate each different initiative we can choose the approaches that are most effective, most reliable and most beneficial for the country. For today let the world know that the Congress has spoken: That the people of this country from its largest corporations to its most humble individuals, will have a part in insuring our energy independence.

Mr. BROTHILL. Mr. Speaker, I rise in opposition to this conference report.

As a member of the conference committee on this legislation, I was deeply disappointed that the conference let a golden opportunity to really do something to develop synthetic fuels slip between its fingers. What we have before us is an unworkable hodge-podge of legislative initiatives, most having received no House consideration, and most of which would fail if they had to stand or fall on their own merit. To vote for this legislative package under these conditions is like buying a pig in a poke, which I am not inclined to do.

Mr. Speaker, when this legislation passed the House last year, it was some 14 pages long and authorized the expenditure of up to \$3 billion in Federal money to assist private enterprise development of synthetic fuels. I supported that bill because I thought that it was a reasonable attempt to stimulate synthetic fuels' production in this country. But now, 1 year after the passage of H.R. 3930, we are asked to swallow this legislation which now spans over 400 pages and which has a price tag which could be over \$90 billion. To my budget-conscious friends I would like to point out that this bill poses the potential for busting every Federal budget over the next 10 years.

I am also deeply concerned about the workability of the U.S. Synthetic Fuels Corporation which title I of this legislation establishes. Under the conference agreement, this Corporation is not subject to the Administrative Procedures Act or the Corporation Control Act. Nor is it subject to many of the laws and regulations which govern the behavior of ordinary Government agencies or Government corporations. For that reason, the opportunity for congressional oversight over this Corporation's activities is likely to be minimal. As a result, we are practically inviting fraud, abuse, and arbitrary and capricious action on the part of this so-called Corporation.

Finally, I must point out that if we are to make our Nation less dependent on foreign oil, we must pass carefully crafted legislation which avoids heavy-handed Government action and massive Government spending. This legislation miserably fails these tests. Aside from the massive amount of money which the Federal Government will pour into this program, this legislation will give this Government Corporation the opportunity to enter into joint ventures with privately owned companies and, under certain circumstances, the Corporation may actually own synthetic fuels projects.

Mr. Speaker, I think this legislation is ill-advised and does not deserve our support. I ask my colleagues to join me in opposing this conference report.

Mr. FRENZEL. Mr. Speaker, this synfuels conference report has been a long time in negotiation. The extended gestation period has produced an overweight infant. Our 12-page House bill has ballooned to over 400 pages.

Our reasonable beginning has swollen to include extraneous matters which the other body insisted on combining with synfuels. One which I find troubling deals with the strategic petroleum reserve. If the other body insists on building up the reserve, I do not object. I do, however, object to the conference committee's creation of a new tax, in contravention of the Constitution, to pay for the reserve buildup.

I believe in the development of synthetic fuels. I have voted for several House sessions for development. But I do not like this complicated 400-page grab bag.

Unfortunately, there is no alternative. Our energy situation is so desperate, and we are so dependent, that there can only be one way to vote.

The United States must develop synthetic fuels, and we must do it promptly, too. Therefore, I will vote for this conference report and for \$20 billion of synfuel development.

Mr. BIAGGI. Mr. Speaker, last year, this body overwhelmingly approved a similar version of the Synthetic Fuels Energy Security Act. At that time, millions of Americans were confronted with long gasoline lines and the prospect of a long cold winter with diminishing supplies of home heating oil. Seemingly overnight, gasoline and oil prices soared and supplies became plentiful. Unfortunately, while a sense of calm was restored, the energy crisis remained very real. Today, our suicidal dependence on foreign oil poses a serious threat to our economic and national security. The conference report we are considering represents both a short- and long-term solution to the problem.

Simply stated, this legislation would help to establish an energy independent United States by increasing both our domestic energy supply and our Nation's energy conservation efforts.

In the area of supply, the conference agreement would exploit the domestic energy resources we have in abundance, such as coal, oil shale, and biomass, and convert them into usable fuels, such as gasoline. The increased production of these so-called synthetic fuels (synfuels) would enable us to reduce our oil imports by 500,000 barrels by 1987, and 2 million barrels by 1992. This would be accomplished by establishing incentives for private industry to build commercial-size synfuel plants. The synfuels program would be administered by a federally owned corporation called the U.S. Synthetic Fuels Corporation (SFC). In addition, the President is granted broad standby authority to involve the Federal Government in actual synfuel production if private industry is not able to meet the production goals.

The short-term cost of this program to the American taxpayer will be little or nothing. Under this legislation, private industry would build these expensive synfuel plants and pay for them, with the assurance that they will receive a minimum price guarantee for the synfuel they have been contracted by the Government to produce. In the long term, savings to the American consumer will be significant, since synfuels are much cheaper than overpriced foreign oil.

I am especially enthusiastic about the positive effect this new synfuel industry will have on our weakened economy. Each synfuel plant will provide about 20,000 jobs onsite and in various support activities. About 10 or more plants are expected to be needed to achieve the established synfuel production goals.

Our efforts to become energy independent will be further bolstered by additional incentives provided in the legislation for alcohol fuels production from farm products and urban waste, and for solar and geothermal energy exploration and production.

In the area of conservation, the legislation provides for a number of steps aimed at reducing industrial and residential use of oil, gas, and electricity. Special emphasis is given to replacing conventionally heated homes and apartments with solar energy.

Specifically, this measure would create a solar energy and energy conservation bank within the Department of Housing and Urban Development to provide subsidized loans to persons making energy conservation improvements, or installing energy equipment. General conservation loan subsidies would be available only for achieving energy savings in existing buildings, not new ones. However, the solar subsidies would be available to owners of existing buildings and to the builders of new ones.

Additional Federal assistance is authorized to increase energy productivity and conservation in private industry, and to supplement State programs aimed at stimulating residential energy conservation. The Nation's larger utilities are also required to contribute to the residential conservation effort through financing and technical assistance.

Other major features of the conference report provide for the establishment of a comprehensive Federal study on the environmental impact of domestic energy production, and require the President to resume the filling of the strategic petroleum reserve—SPR—our Nation's emergency fuel supply.

Mr. Speaker, for too long our Nation has been without an effective energy policy. Under the strong leadership of President Carter, we are addressing this extremely serious problem and are going beyond mere expressions of support for an energy independent United States. Earlier this year we passed the Windfall Profit Tax Act—another of President Carter's energy initiatives—which focused on the need to combat soaring energy costs. Today, we are considering another important component of the President's energy self-sufficiency plan—stimulating domestic energy production while increasing conservation efforts. Tomorrow we are scheduled to consider the conference report on the Energy Mobilization Board Act, the proposal by President Carter to cut Government redtape and expedite the implementation of these new energy production programs.

As a strong supporter of an energy independent United States, I have come to realize that any plan intended to achieve this goal must be comprehensive in nature—providing for a balance that encourages the production of various domestic energy sources that will have both short- and long-term benefits. The legislation before us today meets this criteria to the fullest, and I urge that it receive overwhelming approval.

Mr. MAGUIRE. Mr. Speaker, I rise in support of the conference agreement on S. 932, the Energy Security Act of 1980. There are two features of this bill which will truly contribute to our energy security and future in a meaningful way. The first, of course, is the commitments to production of levels of synthetic fuels which will displace a significant amount of the oil we import daily. The second is the requirement that the President resume filling the strategic petroleum reserve, which in a crisis, is an equally important component of the energy security program.

The conference agreement establishes the U.S. Synthetic Fuels Corporation the goal of which is to encourage the production of at least 500,000 barrels of crude oil equivalent per day by 1987, increasing to 2 million barrels per day equivalent by 1992.

While the bill authorizes the expenditure of a total of \$88 billion over the next 17 years, this figure is accounted for primarily by loan guarantees, purchase contracts, and price guarantees. This makes it highly unlikely that anything near this figure will be spent. The \$88 billion figure is clearly a worst case. In fact, the Government may never have to spend a dime, but Federal backing will help to encourage private industry to commit the huge amounts of capital needed to get the synfuels effort off the ground.

Besides the obvious reduction in our dependence on foreign oil, the synthetic fuels program may well provide a strong and much needed jolt to our economy as private investment picks up and new jobs are created. By ending the exportation of billions of American dollars to the Middle East for petroleum, we will be keeping the money within the United States and taking advantages of our own abundant natural resources.

There is another important way that this bill would lessen the influence that the oil producing nations have on the United States. I am referring to title VIII of the conference agreement that instructs the President to resume filling the strategic petroleum reserve at a rate not less than 100,000 barrels per day. That reserve has not had a drop of new oil put into it since November of 1978. We have about 2 weeks of supply in our reserves which lies in stark contrast to the Japanese, with mothballed tankers filled to the brim with oil, which lie anchored offshore with 90 days of oil. We must equal the commitment made by the Japanese to insure that we are never as vulnerable as we were during the days in 1973-74 when the embargo took place.

I would like to stress that the 100,000-barrel-per-day rate, at which the bill instructs the President to fill SPRO, is a minimum level. It is my hope that the President will take advantage of the cheaper Elk Hills Reserve oil which we have earmarked for these purchases and exceed the 100,000-barrel-per-day rate. Let us exceed the minimum for a change and get the kind of security a filled strategic petroleum reserve would yield.

In all, this a major bill, one which I am proud to support. If we continue on this track, building upon the synthetics and the conservation incentives which are also built into the legislation, we may well be on our way to the genuine energy security which many of us have been seeking for so long.

Mr. ROSTENKOWSKI. Mr. Speaker, today, I join my fellow Members of the House leadership in support of the conference report accompanying S. 932, the Energy Security Act of 1980.

Mr. Speaker, we have had enough blackmail and extortion threats, we are fed up with our apparent inability or unwillingness to do something meaningful in the energy area. We are not about to go the way of other great nations over the centuries of history which have failed to address difficult problems. This measure will place America in a state of preparedness to deal with potential energy shortfalls.

This legislation calls for the creation of commercial synthetic fuel facilities of diverse types with the aggregate capability to produce from domestic resources in an environmentally acceptable manner the equivalent of at least 500,000 barrels of crude oil per day by 1987 and of at least 2 million barrels of crude oil per day by 1992. Let me stress that the conference report calls for a diversity of synthetic energy sources. There is no single "quick fix" to our energy challenge, but rather the war must be waged on a variety of fronts.

This measure through the creation of the U.S. Synthetic Fuels Corporation will provide financial assistance to undertake synthetic fuels projects. But here again in the initiation of synfuel projects, a creative and diverse approach will be employed in terms of funding mechanisms. In particular, a variety of financial measures: Direct loans, loan guarantees, a guaranteed price of Government synfuel purchase, as well as a variety of joint venture alternatives will be utilized. In addition, it will not be the role of Government to compete with private industry, but rather, Government will encourage the development of synthetic fuel.

Mr. Speaker, this conference report is needed to foster economic security and to reduce the Nation's economic vulnerability to disruptions in imported energy supplies. As a cosponsor of this legislation, I urge adoption of the conference report.

Mr. HAGEDORN. Mr. Speaker, I am pleased to join with my fellow colleagues today in support of S. 932, a legislative package promoting the development and utilization of solar energy, conservation, gasohol, and other alternative forms of energy. It has been almost a year since the House passed H.R. 3930 to promote the commercial production of synthetic fuels which I feel should have been enacted years ago. You may recall that back in 1975 and 1976 I supported President Ford's efforts to boost the production of synthetic fuels but the majority in Congress voted against even discussing the measure.

However, increased national concern over U.S. dependence on OPEC oil, intensified by mile-long gas lines last spring and summer and spiraling gas prices, has prompted congressional action.

As an avid proponent of ethanol production, I am pleased that title II of this legislation incorporates provisions of legislation I introduced back in February 1979. My bill, H.R. 1980, provides for research programs under the Secretary of Agriculture and the Secretary of Energy, encourages the use of grain-produced ethanol as an alternative fuel for motor vehicles and provides guaranteed loans for ethanol-producing facilities.

The need for this legislation is apparent. The American people have and must continue to utilize their creative abilities to develop alterna-

tive forms of energy which will insure us of having a sufficient supply of energy for the future. The fact remains that with the rather grim outlook on world oil production, particularly in light of the unstable conditions in the Middle East, it is absolutely imperative to develop alternative energy sources. Adoption of this legislation is a step in the right direction and has my wholehearted support.

Mr. GOLDWATER. Mr. Speaker, I rise in opposition to the conference report on S. 932, the Energy Security Act. I will remind my colleagues that I was 1 of 25 Members to vote against the House version, H.R. 3930, the Defense Production Act Amendments of 1979. The same reasons which prompted me to oppose that bill encourage my opposition to this conference report. I might also remind my colleagues that while the House version of S. 932 was 14 pages long and authorized \$3 billion for synfuels production, the conference agreement, most of which was written without House committee debate, contains 8 titles, is over 300 pages long, and will eventually authorize almost \$90 billion of the taxpayer's money.

Mr. Speaker, I believe it is bad policy for the Federal Government to create more bureaucratic agencies as an answer to our energy crisis, and that is exactly what some of my colleagues are trying to do here today. My colleagues know that I have no objection to providing necessary funds for new technologies, but I question the manner in which we are intruding on private industry under this bill. Funding research and development programs is one thing, controlling the operation and maintenance of those programs is quite another. We must allow private industry to develop synthetic fuels, and they will, Mr. Speaker, if given the opportunity they have been refused. They have been denied because of Government regulation. Proponents of this bill would have you believe private industry is afraid to venture into the field of synthetic fuels development because they feel it is too "risky." That is simply not true. Private industry will aggressively develop synthetic fuels if the Government will provide the incentives and eliminate unnecessary roadblocks, such as needless bureaucratic regulations, that stifle business growth. That is the only sensible, appropriate, fair, economic, and justifiable way to achieve this Nation's goal of energy independence. By decontrolling crude oil prices, for example, synthetic fuel prices will become competitive with oil prices. This is the incentive private industry needs, not another independent, federally owned bureaucratic agency.

Mr. Speaker, proponents of this bill encourage quick House passage of S. 932, so that the President will be able to sign the measure on July 4, declaring America's "energy independence." I am afraid that if we pass this bill, and therefore impose added delays in sensible synthetic fuel development projects, the President may find himself in future years signing Independence Day proclamations by candlelight.

Mr. DRINAN. Mr. Speaker, I rise in support of the conference report on S. 932, the Energy Security Act of 1980.

I am especially pleased to support, in title V of the report before us, the creation of a solar energy and energy conservation bank. I drafted and introduced similar legislation in 1978, shortly after the creation of the first "solar coalition" in Congress. Under title V, the Department of Housing and Urban Development would provide through local fi-

nancial institutions subsidized loans to persons and businesses making energy conservation improvements or installing solar energy equipment. My original proposal to encourage industrial energy conservation which I first introduced in 1975, has also been adopted in the committee report. Both proposals provide for an accelerated research, development, and demonstration program in this area. Other provisions in this section of the legislation would provide matching grants for residential conservation efforts, allow utilities to finance conservation measures, and provide grants to States to train and certify energy auditors.

The provisions of title V, combined with the tax credits for solar applications in the Windfall Profit Tax Act recently signed into law, will do a great deal to reduce the effective price to homeowners of installing appropriate equipment. In so doing, these measures will combine to reduce heating and cooling bills for millions of Americans and will reduce our need for expensive imported oil. I am proud to have played a part in the evolution of this facet of the legislation before us today.

I am similarly encouraged by the incorporation of several other provisions. Adoption of this legislation would create a broad biomass and alcohol fuels program, require the Federal Government to use gasohol in its vehicles wherever practical, establish an Office of Energy for Municipal Waste in order to expedite the recovery of energy from this burgeoning source, and create new incentives for the use of renewable energy resources such as hydropower, and set up a pilot program to promote local energy self-sufficiency. Another provision would promote through studies and demonstration projects the increased utilization of geothermal energy, the natural heat of the Earth.

Of special interest to the people of New England is the provision instructing the President to resume filling the strategic petroleum reserve (SPR). Today we remain vulnerable to another OPEC boycott or to any supply disruption by our foreign oil suppliers. Because New England generates 58 percent of its electricity with residual oil, of which 97 percent is imported, the people I represent will be particularly pleased that the SPR—including a regional product reserve—will be filled over the next few years.

Another section in the conference report mandates a study on acid rain, again of particular concern of New Englanders, and on the causes and effects of a buildup of carbon dioxide in the atmosphere. We in the Northeast are exposed to acid rain generated due to coal burning in the Midwest and suffer more than any other region from its effects. The research mandated here should provide the basis for a thorough response to the problem.

My support of the conference report on S. 932 is not without some apprehension, however. Of the \$25 billion authorized by this legislation \$20 billion would serve to financially assist private industry to produce synthetic fuels from coal, oil shale, and other sources. Under present technology, the production and use of synfuels would lead to the production of toxic wastes and contribute to the buildup of carbon dioxide in the atmosphere, already areas of grave concern. In addition, the authorization of this great sum of money and the possible authorization of \$88 billion for the federally owned Synthetic Fuels

Corporation over its 12-year lifetime could well reduce the amount of Federal funds available for more worthwhile and cost-effective projects such as those I have outlined earlier. It could cause private industry to focus its efforts and capital on synthetic fuels to the exclusion of conservation technologies and renewable energy sources.

Despite these reservations, I support this comprehensive energy package and urge the support of my colleagues. No other legislation thus far this year or for the foreseeable future does more to address our energy problems. A positive piece of legislation, the product of many hours of debate and discussion, the conference report on S. 932 deals with these problems on several fronts and is deserving of our approval today.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, in the conference on S. 932, the House conferees were outnumbered by three to two, but we had a secret weapon. Our secret weapon was the majority leader of the U.S. House of Representatives, and I now yield the balance of the time remaining to our "secret weapon," the gentleman from Texas (Mr. Wright).

Mr. WRIGHT. Mr. Speaker, I am flattered by that description.

We come to the end of a long trail. For many of us this has been an agonizing journey. For me personally today is the fulfillment of a vow that I made to myself almost 4 years ago, on September 23, 1976, when the House, by a margin of only one vote in the closing days of the session, failed to take up a bill that would have provided a start in the development of synthetic fuels. On that day, I made a promise to myself that I would not rest until we had corrected that deficiency.

This bill, as it comes before us now, is probably the most comprehensive single piece of energy legislation that the Congress has ever passed. It is high time. It is long overdue. Across a broad front, it contains initiatives for both conservation and development.

In 1973 when the Arab embargo should have shocked us out of our lethargy and into dramatic action, this country was importing some \$8 billion worth of foreign oil. We thought that was too much, and indeed it was. This year, because of our profound reliance upon foreign sources, because in the intervening years we have failed to make this Nation energy independent, we will be spending some \$80 billion—10 times as much—for foreign petroleum. And that exacerbates every other economic ill that besets the country.

This bill, I think, is a monument to the cooperation between the various House and Senate committees. It is a tribute to the ability of the House and the Senate to work together in the pursuit of creative solutions. It is in all respects a bipartisan product, and a tribute to the bipartisan spirit which can rise above partisan considerations when the national interest is at stake. And I want to say, over and above all of this, that it is a tribute to the persistence, the perseverance, the patience, and the dogged determination of Bill Moorhead of Pennsylvania, whose leadership has been evident for more than a year, since before that day exactly 1 year ago when we passed this bill overwhelmingly in the House. Each of us owes to Bill Moorhead, the ranking minority member, Stewart McKinney, and to the staff of their committee and to these other committees that have worked so

carefully and consistently together a word of very sincere appreciation.

Mr. HANCE. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to my friend, the gentleman from Texas.

Mr. HANCE. Mr. Speaker, it is very important that there be some type of assurance that the Office of Alcohol Fuels has the ability to carry out its functions as prescribed in this bill.

With that in mind, I would like to ask the gentleman if the bill will give the Department of Energy funds in connection with alcohol fuels for operating and capital expenditures rather than all of it being for loan guarantees, purchase agreements, and price supports.

Mr. WRIGHT. Mr. Speaker, the committee definitely intended and the conferees clearly intended that funding provided under the various titles of this legislation would cover both necessary administrative and program expenses. Section 204 in particular of title II provides that \$600 million will be available to the Secretary of Agriculture to carry out activities under subtitle A, the Biomass Energy Development, and that \$600 million will be available to the Secretary of Energy to carry out biomass energy activities.

Section 204(a) further provides that at least \$500 million of that amount will be available to the Office of Alcohol Fuels to carry out its activities.

I can think of no broader term of description than the word "activities." That language definitely is intended to provide not only money to be used for financial assistance to alcohol fuel projects but also money for whatever necessary administrative expenses may be entailed, as well as other operating expenses.

Mr. HANCE. Mr. Speaker, I thank the gentleman.

Mr. WRIGHT. Mr. Speaker, the importance of this legislation can be seen when we realize that this Nation is hemorrhaging economically by some \$80 to \$90 billion this year because we have allowed ourselves to become so painfully dependent upon foreign sources.

Beside that amount, which in a decade would cost us some \$800 or \$900 billion, very close to a trillion dollars—money that could be used to produce American goods, to buy American products, and to employ American workers—that \$20 billion that we have made available for the Synthetic Fuels Corporation to commit—not spend, but commit—to stimulation investment in the private sector of an equivalent or a greater amount during the next 4 years, then that figure fades into insignificance by a comparison.

We have done those things necessary, I think, to avoid any of the predictable errors of administration that might creep into a program of this kind. We have tried by prudent restriction to avoid the fatal errors of a runaway bureaucracy. Indeed we have tried to streamline an organization in the Energy Security Corporation which will be relatively free of the bureaucratic redtape which hamstringing so many agencies today.

We have given it a mandate. We have said to this Energy Security Corporation that we fully expect them to make available loans, loan guarantees, and guarantees of purchases sufficient to stimulate investment in the private American sector of enough money to create specific quantities of American energy from American indigenous resources. From the coal and oil shale that lie under our grounds and

from the waste products of our fields and forests, we want that Corporation to make certain we are producing not less than 2-million-barrels of American energy by the end of the decade.

We stand today, in a very broad sense, where this Nation stood in 1941 when the Japanese cut off our rubber supplies and our future was in jeopardy. We acted swiftly then, and resolutely, to create a synthetic rubber industry. It was a truly major factor in our victory in World War II.

So, today let us summon the same wisdom and the same determination and pass this bill by an overwhelming margin as our declaration of energy independence.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Carr). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 317. nays 93. answered “present” 2. not voting 21. as follows:

[Roll No. 372]

YEAS—317

Addabbo	Boland	Conte
Akaka	Bolling	Corman
Albosta	Bonior	Cotter
Alexander	Bonker	D'Amours
Ambro	Bouquard	Danielson
Anderson, Calif.	Bowen	Daschle
Andrews, N.C.	Brademas	Davis, Mich.
Andrews, N. Dak.	Breaux	de la Garza
Annunzio	Brinkley	Deckard
Anthony	Brodhead	Derwinski
Applegate	Brooks	Dicks
Ashley	Broomfield	Dingell
Aspin	Brown, Calif.	Dodd
Atkinson	Buchanan	Donnelly
AuCoin	Burlison	Dornan
Bailey	Byron	Dougherty
Baldus	Campbell	Downey
Barnes	Carney	Drinan
Beard, R.I.	Carr	Duncan, Oreg.
Bedell	Carter	Duncan, Tenn.
Benjamin	Cavanaugh	Early
Bennett	Chappell	Edgar
Bereuter	Chisholm	Emery
Bethune	Clausen	English
Bevill	Clay	Erdahl
Biaggi	Cleveland	Ertel
Bingham	Clinger	Evans, Del.
Blanchard	Coelho	Evans, Ind.
Boggs	Coleman	Fary

Fascell
 Faslo
 Ferraro
 Fish
 Fisher
 Fithian
 Flippo
 Florio
 Foley
 Ford, Mich.
 Ford, Tenn.
 Fountain
 Fowler
 Frenzel
 Frost
 Fuqua
 Garcia
 Gaydos
 Gephardt
 Gialmo
 Gibbons
 Gilman
 Ginn
 Glickman
 Gonzalez
 Goodling
 Gore
 Gradison
 Gray
 Green
 Guarini
 Gudger
 Guyer
 Hagedorn
 Hall, Ohio
 Hamilton
 Hammerschmidt
 Hance
 Hanley
 Harkin
 Harris
 Heckler
 Hefner
 Heftel
 Hightower
 Hillis
 Hinson
 Holland
 Hollenbeck
 Holtzman
 Hopkins
 Horton
 Howard
 Hubbard
 Huckaby
 Hughes
 Hutchinson
 Hutto
 Hyde
 Ichord
 Ireland
 Jenrette
 Johnson, Calif.
 Johnson, Colo.
 Jones, N.C.
 Jones, Tenn.

Kastenmeyer
 Kazen
 Kildee
 Kogovsek
 Kostmayer
 Kramer
 LaFalce
 Lagomarsino
 Leach, Iowa
 Leach, La.
 Lederer
 Lehman
 Leland
 Lent
 Levitas
 Lloyd
 Long, La.
 Long, Md.
 Lott
 Lowry
 Lujan
 Luken
 Lundine
 McClory
 McCormack
 McDade
 McHugh
 McKay
 McKinney
 Maguire
 Marks
 Marriott
 Matsui
 Mavroules
 Mazzoli
 Miller, Ohio
 Mineta
 Minish
 Mitchell, Md.
 Mitchell, N.Y.
 Moakley
 Moffett
 Mollohan
 Montgomery
 Moorhead, Pa.
 Mottl
 Murphy, Ill.
 Murphy, N.Y.
 Murphy, Pa.
 Murtha
 Musto
 Myers, Ind.
 Myers, Pa.
 Natcher
 Neal
 Nedzi
 Nelson
 Nichols
 Nowak
 Oakar
 Oberstar
 Obey
 Ottinger
 Pannetta
 Patterson
 Pease

Pepper
 Perkins
 Petri
 Peyser
 Pickle
 Porter
 Preyer
 Price
 Pritchard
 Pursell
 Quayle
 Quillen
 Rahall
 Railsback
 Rangel
 Ratchford
 Reuss
 Richmond
 Rinaldo
 Ritter
 Robinson
 Rodino
 Roe
 Rose
 Rosenthal
 Rostenkowski
 Roth
 Roybal
 Royer
 Russo
 Sabo
 Santini
 Sawyer
 Schener
 Schroeder
 Schulze
 Sebellius
 Seiberling
 Sensenbrenner
 Shannon
 Sharp
 Shelby
 Simon
 Skelton
 Smith, Iowa
 Smith, Nebr.
 Snowe
 Snyder
 Solarz
 Solomon
 Spellman
 Spence
 St Germain
 Stack
 Stangeland
 Steed
 Stenholm
 Stewart
 Stokes
 Stratton
 Studds
 Swift
 Tanke
 Tauzin
 Thompson
 Traxler

Tribble
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins

Waxman
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff

Wright
Wyatt
Wylder
Wyllie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—93

Archer
Ashbrook
Badham
Barnard
Bauman
Beard, Tenn.
Beilenson
Brown, Ohio
Broyhill
Burgener
Burton, John
Burton, Phillip
Butler
Collins, Tex.
Conable
Conyers
Corcoran
Coughlin
Crane, Daniel
Crane, Phillip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Dellums
Devine
Dickinson
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Evans, Ga.
Fenwick

Findley
Forsythe
Gingrich
Goldwater
Gramm
Grisham
Hall, Tex.
Hansen
Holt
Jacobs
Jeffries
Jones, Okla.
Kelly
Kemp
Kindness
Latta
Leath, Tex.
Lee
Lewis
Livingston
Loeffler
Lungren
McCloskey
McDonald
McEwen
Madigan
Markey
Marlenee
Martin
Mattox
Michel
Mikulski

Moore
Moorhead,
Calif.
Nolan
O'Brien
Pashayan
Paul
Regula
Rhodes
Roberts
Rousselot
Rudd
Satterfield
Shumway
Shuster
Stanton
Stark
Stockman
Stump
Symms
Synar
Taylor
Thomas
Walker
Weaver
Weiss
Whittaker
Wilson, Bob
Wolpe
Young, Alaska

ANSWERED "PRESENT"—2

Rafalis

Jeffords

NOT VOTING—21

Abdnor
Anderson, Ill.
Boner
Cheney
Collins, Ill.
Courter
Davis, S.C.

Derrick
Dixon
Erlenborn
Grassley
Harsha
Hawkins
Jenkins

Mathis
Mica
Miller, Calif.
Patten
Rumels
Staggers
Wilson, C. H.

The Clerk announced the following pairs:
On this vote:

Mr. Staggers for, with Mr. Cheney against.
Mr. Grassley for, with Mr. Jeffords against.
Mr. Abdnor for, with Mr. Courter against.

Until further notice:

Mr. Mica with Mr. Erlenborn.
Mr. Derrick with Mr. Harsha.
Mr. Patten with Mr. Boner of Tennessee.
Mrs. Collins of Illinois with Mr. Davis of South Carolina.
Mr. Dixon with Mr. Mathis.
Mr. Runnels with Mr. Miller of California.
Mr. Charles H. Wilson of California with Mr. Hawkins.
Mr. Jenkins with Mr. Anderson.

Messrs. Weaver, Edwards of California, and Pashayan changed their votes from "yea" to "nay."

Mr. Tauzin and Mr. Rangel changed their votes from "nay" to "yea."

Mr. JEFFORDS. Mr. Speaker, on this vote I am recorded as "nay." I have a live pair with the gentleman from Iowa (Mr. Grassley). If he were present he would have voted "yea." Therefore, I withdraw my vote and vote "present."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the conference report just agreed to.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

**DEBATE IN THE U.S. SENATE ON THE CONFERENCE
REPORT (96-1104) ON S. 932, JUNE 19, 1980**

Mr. Robert C. Byrd addressed the Chair.
The PRESIDING OFFICER. The Senator from West Virginia.

UNANIMOUS-CONSENT REQUEST—ENERGY SECURITY ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report on S. 932, which is the synfuels conference report, with the proviso that there be a 3-hour time limitation overall, and that the motion to reconsider the disposition of the conference report be a nondebatable motion.

Mr. BAKER. Mr. President, reserving the right to object, I reserve for purpose, Mr. President, of saying that I had understood yesterday that we had made good progress on a time limitation of 4 hours. My inquiry would be of the majority leader, whether or not he would agreeable to a 4-hour time limitation instead of a 3-hour limitation.

Mr. ROBERT C. BYRD. Yes, I would be.

Mr. BAKER. And my next point on reservation, Mr. President, is that I do not know of any particular reason not to proceed to the synfuels conference report at this point, but I wonder what is going to happen at that. If we in fact do not object to the unanimous-consent request, the synfuels conference report would become the pending business, I say, a 4-hour time limitation, and after that we would be in the same position we are in now.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BAKER. That is, the DOJ authorization would be the pending business. On further reservation, Mr. President, I assume as well that a distinguished majority leader could move to the consideration of that matter.

Mr. ROBERT C. BYRD. He could.

Mr. BAKER. Since it is a privileged matter he could ask the Chair to bring before the Senate the conference report and move that we proceed to the consideration of that matter.

Mr. ROBERT C. BYRD. That is correct.

Mr. BAKER. And that would be a nondebatable motion.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BAKER. At that point, Mr. President, we also would have the situation, as I understand it, where, after the conclusion of the synfuels conference report, with or without a time limitation, the Senate would return to the consideration of the DOJ authorization bill.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BAKER. So in any event, the situation, unless we modify it by some other measure or by unanimous-consent, is that after 4 hours,

and 4 hours indeed was the time submitted for the consideration of the synfuels conference report, we would be back on this matter.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BAKER. Mr. President, I have no particular objection to that. I am not prepared now to accede to the request. I see the distinguished Senator from North Carolina on the floor. I will permit him to reserve on this request, if he wishes.

Let me make one further point on the reservation, Mr. President. I would hope that we could find a way to deal with this matter and, indeed, with the other matters that are on this list that we discussed this morning. We are playing Russian roulette with this measure, with DOJ. We have every emotional issue that is just about likely to come before this body on this measure.

I want to work with the will of the Senate. I want to arrange the schedule. But this is a heavy shell, to put all of this loading on this one measure.

On this reservation, Mr. President, I ask the majority leader if he would be willing to try to work out some sort of an arrangement so we could find a time to reconsider the vote of the distinguished Senator from North Carolina and have another vote.

Mr. ROBERT C. BYRD. Mr. President, if this is Russian roulette, it was initiated on the other side of the aisle.

Mr. BAKER. Mr. President, that—

Mr. HELMS. Mr. President, I have to object to that statement. That is not true.

Mr. BAKER. Mr. President, not one single thing has been done on this side to bring these matters to the present position they are in the Senate.

Mr. ROBERT C. BYRD. Mr. President—

Mr. BAKER. The Senator from North Carolina simply offered an amendment and he won it. We are paying the price.

Mr. ROBERT C. BYRD. That amendment began the Russian roulette. The Senator from North Carolina did not win it. His amendment has not yet been voted on.

Mr. HELMS. Reserving the right to object, the question is who lost yesterday, not who won. That is the issue. I must reject as categorically as I can, Mr. President, the assertion by the majority leader. He knows better than that. I regret that he said it. I think in a cooler moment he will realize that he overspoke himself.

Mr. BAKER. Mr. President, the question before us, I assume, is the request of the majority leader on the unanimous consent request to proceed to the consideration of the synfuels conference report.

Mr. HELMS. I object.

Mr. BAKER. I yield to the Senator from North Carolina.

Mr. HELMS. I object.

The PRESIDING OFFICER. The question is on the amendment No. 1200. The amendment is not debatable.

Mr. BAKER. Mr. President, I move to table amendment No. 1199 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Boren). Is there objection?

Mr. THURMOND. Mr. President, reserving the right to object, I do object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed and concluded the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 10 Leg.]

Baker	Hatfield	Levin
Boren	Heflin	Pryor
Bumpers	Helms	Sarbanes
Byrd, Robert C.	Jackson	Thurmond

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. Baucus), the Senator from Alaska (Mr. Gravel), the Senator from South Dakota (Mr. McGovern), and the Senator from Montana (Mr. Melcher) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. Javits) is necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators present desiring to vote?

The result was announced—yeas 92, nays 2, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—92

Aiken	Hart	Packwood
Baker	Hatch	Pell
Bayer	Hatchell	Percy
Bellmon	Hayakawa	Premier
Bentsen	Hefner	Proxmire
Biden	Helms	Pryor
Biven	Holmes	Randolph
Brockwitz	Hollings	Ribicoff
Bradley	Huddleston	Riegle
Bumpers	Humphrey	Roth
Burdick	Inouye	Sarbanes
Byrd, Harry F., Jr.	Jackson	Sasser
Byrd, Robert C.	Jepson	Schmitt
Cannon	Johston	Schweiker
Chafee	Kassebaum	Simpson
Chiles	Kennedy	Stafford
Church	Laxalt	Stennis
Cochran	Leahy	Stevens
Cohen	Levin	Stevenson
Cranston	Long	Stewart
Culver	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Thurmond
Dole	McConnell	Tower
Domenici	McClure	Twongas
Durenberger	Metzenbaum	Wallop
Durkin	Mitchell	Warner
Eagleton	Morgan	Williams
Exon	Moynihan	Young
Ford	Nelson	Zorinsky
Glenn	Nunn	

NAYS—2

Garn

Weicker

NOT VOTING—6

Baucus
GoldwaterGravel
JavitsMcGovern
Melcher

So the motion was agreed to.

The **PRESIDING OFFICER**. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. BAKER. Mr. President, have the yeas and nays been ordered on my motion to table?

The **PRESIDING OFFICER**. The yeas and nays have been ordered.

The question occurs on the motion to table the amendment of the Senator from West Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announced that the Senator from Alaska (Mr. Gravel), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Melcher), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. Javits) is necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The **PRESIDING OFFICER**. Are there any other Senators in the Chamber who desire to vote?

result was announced—yeas 41, nays 53, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—41

ng	Hatfield	Pressler
	Hayakawa	Roth
	Heinz	Schmitt
ts	Helms	Schweiker
arry F., Jr.	Humphrey	Simpson
	Jepson	Stafford
	Kasselbaum	Stevens
	Laxalt	Thurmond
h	Long	Tower
	Lugar	Wallop
i	Mathias	Warner
rger	McClure	Weicker
	Packwood	Young
	Percy	

NAYS—53

	Ford	Nelson
	Glenn	Nunn
	Hart	Pell
	Heflin	Proxmire
	Hollings	Pryor
	Huddleston	Randolph
i	Inouye	Ribicoff
	Jackson	Riegle
bert C.	Johnston	Sarbanes
	Kennedy	Sasser
	Leahy	Stennis
	Levin	Stevenson
i	Magnuson	Stewart
	Matsunaga	Stone
ni	Metzenbaum	Tsongas
	Mitchell	Williams
i	Morgan	Zorinsky
	Moynihan	

NOT VOTING--6

er	Javits	Melcher
	McGovern	Talmadge

the motion to lay on the table Mr. Robert C. Byrd's amendment (S. 1199) was rejected.

ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME-LIMITATION AGREEMENT—S. 932

ROBERT C. BYRD. Mr. President, I ask unanimous consent that at this time as the conference report on the synfuel legislation, S. 932, is reported and made the pending business before the Senate there be a limitation thereon of 4 hours overall, the time to be equally divided between Mr. Johnston and Mr. Hatfield, and that there be no further debate on any motions which would otherwise be debatable. The motion to reconsider following the final disposition of the conference report.

It would be my intention, if the agreement is entered, to immediately move to take up the synfuel legislation.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the majority leader and I have reached an arrangement whereby the time for debate on this measure would be limited as he has described. We cannot give unanimous consent to proceed to the consideration of the synfuels bill, but it is my understanding that he will proceed, assuming this arrangement is granted, to move the consideration of the conference report, and I would expect that motion would prevail without a record vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. ROBERT C. BYRD. It is my understanding that moving to take up a privileged matter does not place back on the calendar a pending unprivileged matter; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

ENERGY SECURITY ACT—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I move to proceed to the consideration of the conference report on S. 932.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 932) to extend the Defense Production Act of 1950, as amended, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. I yield to the Senator from Washington (Mr. Jackson).

Mr. JACKSON. Mr. President, the conference report before the Senate today represents the culmination of a year and a half of work on the Energy Security Act.

In a broader sense, however, it represents the culmination of more than 10 years of congressional effort to bring a major national synthetic fuels program to fruition.

The subject is hardly new to the Committee on Energy and Natural Resources or to the Senate. The promise of synthetic fuels has occupied our attention since the O'Mahoney-Randolph Synthetic Fuels Act was passed back in 1944. It has figured prominently in every major plan for energy self-sufficiency developed over the years.

In the early 1970's I introduced legislation to establish a Coal Gasification Development Corporation. It was opposed by the then administration and no final action was taken.

In the Federal Non-Nuclear Energy Research and Development Act of 1974 we authorized a broad program to foster commercial-scale demonstration of coal gasification, oil shale, and coal liquefaction.

The Senate has consistently supported efforts to achieve a national synthetic fuels production capability. In 1975, we approved the Synthetic Fuels Act to authorize \$5 billion in loan guarantees for new energy technologies—only to have the provision rejected by the House.

The Department of Energy has been given authority to guarantee loans, to provide price guarantees, purchase agreements, and the authority for government-owned/contractor operated synthetic fuel projects.

But, none of these authorities has produced any major demonstrations of synthetic fuels technologies.

At every step of the process, there has been general agreement on the need for actual operating experience from several commercial scale synthetic fuel plants.

Both Republican and Democratic administrations have recommended substantial financial assistance to advance such programs.

But despite all this, we have failed to bring even one such project on line. We have lagged far behind other nations, some of which have far less economic ability, fewer resources, and, perhaps, far less urgent needs for new energy sources.

Canada is developing its tar sands.

South Africa is greatly expanding its coal liquefaction capability.

China is producing a portion of its oil requirements from shale.

Instead, we are still immersed in largely academic arguments over the potential merits, hazards, and economic viability of synthetic fuels.

Continuing arguments that further delay will improve the technological basis for commercial demonstration; continuing reluctance to make the necessary financial commitment; and the idle hope that industry will do the job on its own have sapped our will to proceed.

Our programs to explore this vital energy option have been stifled in the annual budgetary process and by the vagaries of bureaucratic decisionmaking.

Mr. President, I say to the Senate that it is time to put away our indecision. It is time to recognize today's energy reality and the hazard to our future national security. It is time to take the bull by the horns and get about the business of bringing commercial synthetic fuel projects on line.

Finally, Mr. President, I want to commend the distinguished junior Senator from Louisiana (Mr. Johnston) for the hard work and leadership he has displayed throughout Senate and conference work on this measure. He was the leader, he was the one who was there day in and day out, week after week, month after month.

I also want to say to the minority that under the able leadership of the distinguished senior Senator from Oregon (Mr. Hatfield) that we had the wholehearted and full support from the minority side of the aisle under Senator Hatfield's able direction.

I also want to commend the Senator from New Mexico (Mr. Domenici), who has taken an important role from the beginning of Senate action on this measure.

I want to thank the chairman of the other Senate committees which have been involved in the measure, Senator Talmadge and Senator Proxmire, for their cooperation and assistance.

On the House side, the hard work and initiative of Mr. Moorhead has made the bill a possibility in this Congress and the untiring support of the majority leader (Mr. Wright) has been vital to its success.

Chairmen Ashley, Fuqua, Staggers, and Dingell have contributed to the measure in their areas of interest, and the staffs of all the committees involved have been worked long and hard, on weekends and frequently through the night, to meet the deadlines for completion of the conference.

I urge my colleagues to approve this conference report as a signal that this Nation intends to carry its own energy needs with domestic resources and to declare its independence from energy servitude.

I ask unanimous consent that a summary of the measure be included in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

SUMMARY: S. 932, ENERGY SECURITY ACT AS AGREED TO BY THE SENATE-HOUSE CONFERENCE ON JUNE 16, 1980

In summary, on Monday, June 16, 1980, the Senate-House conferees on S. 932, the Energy Security Act, agreed to the following:

SYNTHETIC FUELS (TITLE I)

Title I, Synthetic Fuels, is comprised of two parts: Part A, Development of Synthetic Fuels under the Defense Production Act of 1950, and Part B, the United States Synthetic Fuels Corporation Act of 1980.

United States Synthetic Fuels Corporation

The United States Synthetic Fuels Corporation Act of 1980 (Part B) creates an independent Federal entity called the United States Synthetic Fuels Corporation, and establishes national goals for the production of synthetic fuels in the United States of at least 500,000 barrels of crude oil equivalent per day by 1987, increasing to 2 million barrels per day by 1992.

The United States Synthetic Fuels Corporation is structured to be a Federally chartered financial enterprise and empowered to provide various forms of financial assistance to private sector applicants to permit achievement of the purposes of the Act. The financial structure of the Corporation has been formulated to provide a substantial degree of independence to its operations, while preserving the integrity of the Federal budgetary process.

The purpose of the United States Synthetic Fuels Corporation would be to foster, by financial assistance, commercial production, by private industry, of synthetic fuel which is obtained from coal (including lignite and peat), shale, tar sands (including heavy oil), and in the case of water, hydrogen, and which can be used as substitutes for natural gas and petroleum (including crude oil, petroleum products and chemical feedstocks). Also eligible for financial assistance would be facilities (a) used solely to produce mixtures of coal and petroleum for direct fuel use; (b) used solely for commercial production of hydro-

gen from water : (c) any MHD (magnetohydrodynamic) topping cycle used solely for the commercial production of electricity.

The financial resources available to the Corporation over its 12-year lifetime would be up to a maximum of \$88 billion, subject to appropriations. Appropriations are to be deposited in the Energy Security Reserve (established by the Department of the Interior and Related Agencies Appropriations Act, 1980) in at least two installments. The first installment of \$20 billion is authorized upon enactment, and would be subject to appropriations. The second and subsequent installments would be authorized (up to a maximum of \$68 billion) by joint resolution, subject to appropriations.

Powers

The powers of the Synthetic Fuels Corporation are vested in a seven member Board of Directors to be appointed by the President and confirmed by the Senate for seven year staggered terms. The Chairman, who would be designated for an initial seven year appointment, must be full-time. The other six Directors could be part-time. The Corporation can employ up to 300 full-time professionals. An annual authorization of \$35 million for administrative expenses and \$10 million for contract studies is provided.

A six member Advisory Committee also is established and is composed of the Secretaries of Energy, Interior, Defense and Treasury, the Chairman of the Energy Mobilization Board, and the Administrator of the Environmental Protection Agency.

Goals and Comprehensive Strategy

The Congressionally established national synthetic fuels production goals are at least 500,000 barrels of crude oil equivalent per day by 1987, increasing to 2 million barrels per day by 1992. The initial emphasis of the Corporation's activities will be to develop within a broad spectrum of financial and industrial firms experience with a technological diversity of processes, methods and techniques for commercially producing synthetic fuels from domestic resources, while, at the same time, developing the industrial base to undertake achievement of the national synthetic fuel production goals. The Corporation's initial authorization for this purpose is \$20 billion, subject to appropriations. (An initial appropriation of up to \$18,792,000,000 already is provided by P.L. 96-126.)

Within four years of enactment the Corporation is required to develop and submit to the Congress a comprehensive strategy for achievement of the national synthetic fuel production goals, which must be approved as a condition precedent to subsequent authorizations of appropriations. The comprehensive strategy, which must be accompanied by a financial or investment prospectus, would emphasize private sector responsibilities and describe how specific limitations will be placed on Federal involvement. In formulating the comprehensive strategy, the Corporation must consider the feasibility of meeting national defense fuel requirements utilizing synthetic fuel produced by synthetic fuel projects assisted by the Corporation.

Congressional approval of the comprehensive strategy would be by joint resolution under expedited procedures. Besides approval of the comprehensive strategy, the resolution would authorize budget authority up to an additional \$68 billion for the Corporation's synthetic fuel activities (for a maximum of \$88 billion). Given Congressional approval and subject to the availability of the necessary appropriations, implementation of the strategy would proceed. Similar 90-day expedited procedures would apply to any subsequent authorization requests by the Corporation until the full \$88 billion appropriation is approved. The Corporation cannot enter into any obligations for financial assistance which could expose the Federal government to a greater liability than \$20 billion prior to Congressional approval of the comprehensive strategy and appropriation of the necessary funds.

Financial Assistance

The Corporation is empowered to provide financial assistance to the private sector for commercial synthetic fuel projects in the following order of decreasing priority:

- (1) purchase agreements, price guarantees and loan guarantees, up to 75 percent of the project costs;
- (2) loans up to 49 percent of initially estimated project costs unless such limits would prevent the financial viability of the proposed project in which case up to 75 percent would be authorized; and

(3) a minority equity interest, under partnership law, in a joint venture (where the government could provide up to 75 percent of project costs) for commercial modules prior to approval of the comprehensive strategy.

Multiple forms of financial assistance are authorized only if required for the viability of a project and necessary to satisfy the goals and purposes of the Act.

In awarding financial assistance the following limitations, among others, would apply: (a) due consideration must be given by the Corporation to promoting competition; (b) any specific tax credit directly associated with a project also must be taken into consideration in determining the need for financial assistance; and (c) before awarding loans and joint ventures, the Board must determine that purchase agreements, price guarantees and loan guarantees (i) will not adequately support the construction and operation of a synthetic fuel project or (ii) will restrict the available participants for such project.

In the case of loans and loan guarantees the Corporation is authorized: (a) to extend financial assistance, subject to appropriations, to cover (i) 50 percent of cost overruns up to 100 percent of the initially estimated project cost and (ii) 40 percent of additional cost overruns, subject to Congressional notification in the event that the project cost exceeds 250 percent of the estimate upon which the initial award of financial assistance was based; and (b) to award financial assistance to qualified concerns to refine the design of proposed synthetic fuel projects to improve the accuracy of the initial estimated costs on which loans and loan guarantees are awarded.

Up to two synthetic fuel projects located in the Western Hemisphere could receive financial assistance if (1) a class of resources will be utilized that is located in the United States but will not be subject to timely commercial production; (2) financial assistance also will be provided by the host country;

3) the synthetic fuel will be available on equitable terms to users in the United States; and (4) all technology, patents and trade secrets developed are available to citizens of the United States. This authority is only available prior to approval of the comprehensive strategy, subject to one-House Congressional disapproval and is limited to 10 percent of the available obligation authority of the Corporation.

Also the Corporation, under certain limited circumstances, would be authorized to acquire control or to purchase and lease back synthetic fuel projects, subject to Congressional review and veto. Such control must be disposed of within five years after acquisition.

Corporation construction projects, which would be Corporation owned but contractor constructed and operated, would be authorized only prior to approval of the comprehensive strategy and only for one-of-a-kind facilities which employ technologies utilizing significant domestic resources, and only after no participant could otherwise be found who would be willing to proceed under one or more of the above forms of financial assistance. During this period up to three such projects would be authorized on such a last resort basis, after 30 days notice of the Corporation's intent to establish such a Corporation construction project if no acceptable notice of intent to submit a proposal is received. No such projects would be authorized once the comprehensive strategy is Congressionally approved.

In the case of Corporation construction projects and joint ventures, the Corporation is required to consult with the affected Governors with respect to such project's development and related regulatory and other government activities.

Any synthetic fuels acquired by the Corporation through purchase agreements, joint ventures or Corporation construction projects, must be offered first to the Department of Defense for national defense needs before being offered to other Federal agencies and the private sector.

Treasury Operations

When the Corporation proposes to award financial assistance, it must notify the Secretary of the Treasury of its maximum liability under the proposed contract or other obligation agreement. Upon the receipt of notification from the Corporation that amount of borrowing authority in the Energy Security Reserve would be set aside and otherwise be unavailable to the Corporation. The Treasury, within 15 days, must certify to the Corporation that such amounts had been set aside at which time the proposed contract or other obligation agreement could be finalized.

For example, when the Corporation needs actual funds for administrative expenses or to support financial assistance such as loans, the Secretary of the Treasury would be authorized to purchase notes of the Corporation to the extent of its appropriated borrowing authority from the Energy Security Reserve in the United States Treasury. Notes would be retired from revenues or upon dissolution of the Corporation.

An initial appropriation of \$20 billion to the Secretary of the Treasury is authorized, as well as additional amounts upon approval of the comprehensive strategy up to a total of \$88 billion, in the aggregate. As mentioned, any appropriations are to be deposited in the Energy Security Reserve and available to the Corporation only so far as necessary to meet obligations.

Budgetary Aspects

All financial transactions between the Secretary of the Treasury and the Synthetic Fuels Corporation will be reflected in the budget of the United States. Thus the extent of actual borrowing by the Corporation from the Department of the Treasury (from the Energy Security Reserve) will be reflected as outlays of the United States Government.

The internal financial operations of the Corporation are not reflected in the Federal budget since it is to be an independent (on-budget) entity. However, the salaries and expenses of the Corporation, its contractual obligations, and its accounting system will be available for scrutiny through statutorily required annual and quarterly reports and audits as well as General Accounting Office review and audit.

Relationship to Other Laws

The Sunshine Act (5 U.S.C. 552b) would apply to the Corporation. Also the financial disclosure provisions of the Ethics in Government Act of 1978 (P.L. 95-521) shall apply to all directors, officers and certain employees of the Corporation.

Corporation construction projects would be subject to the EIS requirements of the National Environmental Policy Act and Federal, State and local environmental, land use and siting laws to the same extent as a privately sponsored project.

Davis-Bacon and Service Contracts Act would apply to loans and loan guarantees by the Corporation.

The recipients of financial assistance and the Corporation construction projects are required to provide for reasonable participation by small and disadvantaged businesses.

Termination

The authority of the Corporation to obligate funds would cease after September 30, 1992. And the Corporation must terminate its affairs by September 30, 1991. Upon termination the outstanding contracts for financial assistance would be transferred to the Secretary of the Treasury for administration.

DEVELOPMENT OF SYNTHETIC FUELS UNDER THE DEFENSE ACT OF 1950—(PART A)

Under the Defense Production Act Amendments of 1980 (Part A), before the Synthetic Fuels Corporation is fully operational, the President would have authority to offer (through the Department of Defense and other Federal agencies) purchase agreements, loans and loan guarantees to stimulate synthetic fuels development to meet national defense needs pursuant to a new section 305 of the DPA. Up to \$3 billion, subject to appropriations, is available for these activities. Once the Corporation is established, these DPA authorities will convert to a standby basis.

In the event of a national energy supply shortage threatening the adequacy of fuel supplies to meet direct defense and defense industrial base needs, these standby authorities could be activated on a specified Presidential determination to meet such needs. In addition to purchase agreements, loans and loan guarantees, these Presidential standby authorities, subject to appropriations in advance, include authority to install government owned equipment in private facilities and to install private equipment in government-owned facilities; to construct government-owned but contractor operated synthetic fuel projects; and to mandate fuel suppliers to provide synthetic fuel.

The existing non-synthetic fuel authorities of the Defense Production Act are amended to designate "energy" as a "strategic and critical" material.

BIOMASS AND ALCOHOL FUELS URBAN WASTE (TITLE II)

The Biomass Energy Act of 1980 establishes a comprehensive biomass and alcohol fuels program. Part A relates to activities of both the Department of Agriculture (USDA) and the Department of Energy (DOE) regarding all forms of biomass (including crops and crop waste, timber, animal and timber waste). Part B relates only to DOE urban waste activities.

Biomass and Alcohol Fuels (Part A)

USDA is provided jurisdiction over all projects which annually produce less than 15 million gallons (or equivalent of other synthetic fuel) involving agricultural and forestry resources.

Both USDA and DOE, subject to concurrence of the other agency, are authorized to initiate those projects which produce over 15 million gallons per year using forestry resources, and those projects, owned and operated by cooperatives, which produce over 15 million gallons per year using agricultural resources. The other agency will be involved in a concurrence role as soon as possible.

DOE alone will have jurisdiction over all other alcohol and biomass projects which produce over 15 million gallons per year.

USDA and DOE would be required to prepare an overall Federal plan for biomass energy development within six months of enactment, which maximizes biomass energy production and is designed to achieve an alcohol production level of 60,000 barrels per day by the end of 1982. In addition, both agencies must submit by January 1, 1982, a comprehensive strategy for the period 1982 to 1990 which maximizes biomass energy production and use, and achieves an alcohol production level equal to not less than 10 percent of estimated gasoline consumption in 1990.

USDA will have authority to review DOE projects, on a consultation basis, for national, regional and local impact on agricultural supply, production, and use, and likewise. DOE will have authority to review USDA projects for technical and national fuel policy considerations—each agency will have 15 days in which to review the projects of the other agency, with 30 days for the other to respond before proceeding.

Priority for financial assistance and the most favorably financial terms available will be given to projects that use a primary fuel other than petroleum or natural gas in the production of biomass fuel, such as geothermal energy, solar energy, and cogeneration facilities, or which apply new technologies which expand the possible resources. However, this shall not be interpreted to exclude projects utilizing more traditional fuels.

FEDERAL MOTOR VEHICLES

The Federal government is required to use gasohol in any motor vehicle capable of using gasohol, which it owns or leases. Exceptions apply where gasohol is not available in reasonable quantities or at reasonable prices, or where the President finds an exemption is necessary to protect the national security.

Motor Vehicle Study

The Secretary of Energy in consultation with the Secretary of Transportation, within nine months of enactment, is directed to submit to Congress a study on whether legislation is needed to require that any new motor vehicle be capable of operating on gasohol or on pure alcohol; and to address institutional barriers that inhibit the widespread marketing of gasohol, including requirements for specified amounts of alcohol in all gasoline.

Natural Gas Priorities

For purposes of natural gas supply priority under section 401 of the Natural Gas Policy Act, the term "essential agricultural use" shall, for a period of five years from the date of enactment, include sugar refining for production of alcohol; and the use of natural gas in the distillation of fuel grade alcohol from food grains or biomass by existing facilities which do not have the installed capability lawfully to burn coal.

Standby Allocation

The Emergency Petroleum Allocation Act of 1973 is amended to require the President to exercise his standby allocation authority if he finds that significant

quantities of alcohol suitable for use in motor fuel would not otherwise be used for that purpose because of an unavailability of refined petroleum products with which the alcohol would be blended. Specifically, where the President finds such situation exists, he shall use his authority to allocate crude oil to specific refiners or petroleum products to gasoline marketers so that the available alcohol will be blended into motor fuel. Consideration is to be given to quality control in refinery operations affected by the President's actions under this provision so as to avoid disruption of the markets for crude oil or refined petroleum products, and to avoid causing unreasonable increases in the price of alcohol.

Urban waste (part B)

A new Office of Energy from Municipal Waste will be established in DOE with responsibility for continuing the existing urban waste program with minimal disruption and reorganization.

General criteria for providing commercial financial assistance include:

- (a) giving priority funding to commercialization of technologies which can displace oil or gas;
- (b) using the amount and type of assistance that will minimize potential liability of the Federal government; and
- (c) providing assistance only to facilities which are both technically and economically feasible.

Financial assistance for construction projects may be in the form of loans and loan guarantees not to exceed 75 percent of total capital costs.

Price support loans may be provided to new and existing urban waste facilities under certain conditions. Price support loans will be available only for recovery energy or fuel products actually produced, sold to a buyer and used. Authority to grant price support loans terminates December 31, 1994.

In addition, the Secretary has the discretion to provide price supports with no repayment of principal and interest for new facilities.

Financial assistance

The Title II authorizations for Fiscal Years 1981 and 1982 are, in the aggregate, \$1,200,000,000 for the comprehensive biomass and alcohol fuels activities (Part A), and \$250 million for urban waste activities (Part B).

Specifically, under Part A \$600 million will be available for USDA activities (including up to \$200 million for small-scale biomass energy projects of less than one million gallons per year) and \$600 million will be available for DOE activities, other than urban waste (including not less than \$500 million to the DOE Office of Alcohol Fuels for financial assistance to alcohol fuel projects). The remaining DOE authorization, \$100 million, shall be available for biomass energy systems development.

ENERGY TARGETS (TITLE III)

Title III requires the President to prepare and submit annually as a separate title of the Department of Energy Annual Authorization bill, energy targets for net imports, domestic production, and end-use consumption, after considering conservation, for the years 1985, 1990, 1995, and 2000 together with supporting data and a statement of all assumptions adopted in preparing the targets.

The purpose of Title III is to establish a process for the Congress to debate and vote on, and the President approve, a comprehensive and internally consistent set of energy targets for the United States during the first sessions of the 97th and 98th Congresses. During the 97th Congress only, special procedures would be established to insure that a vote on the initial targets is obtained in each House.

The energy targets shall be considered goals that are not binding on the Congress or any of its Committees or on the Executive Branch. They shall not be, nor have the effect of, law.

No new funds are authorized for preparation of the energy targets.

RENEWABLE ENERGY INITIATIVES (TITLE IV)

The Omnibus Solar Commercialization Act of 1980 establishes incentives for the use of renewable energy resources to coordinate information dissemination and outreach programs and to promote the use of renewable energy resources, and establishes a three-year pilot program to promote local energy self-sufficiency.

Information dissemination and outreach services

The Secretary of Energy is directed to coordinate solar and conservation information dissemination activities funded by the DOE and report annually to the Congress on the status of such activities, including providing a summary of how the services of DOE are coordinated with services in other agencies.

Energy initiatives in new and renovated Federal buildings

The National Energy Conservation and Policy Act is amended to require the Secretary of Energy to use a 7 percent discount rate and marginal fuel costs in calculating the life-cycle costs of conservation and solar investments in Federal buildings.

Energy self-sufficiency initiatives

A three-year energy self-sufficiency program, with a \$10 million authorization in Fiscal Year 1981, shall be established to demonstrate energy self-sufficiency through the use of renewable energy resources in one or more States in the United States. Within 180 days of enactment, the Secretary of Energy is required to prepare a detailed program plan, and within one year of enactment, submit to the Congress suggested legislative initiatives needed to implement the plan.

Photovoltaic

The Federal Photovoltaic Program in the National Energy Act is amended by expanding the definition of "Federal facility" to incorporate greater flexibility in the deployment of photovoltaic systems, and by exempting certain program activities from the rulemaking requirements of the Administrative Practices Act.

Small-scale hydropower initiatives

The small-scale hydropower provisions in the National Energy Act are amended to expand the definition of small-scale hydropower facilities for a maximum capacity of 15 megawatts to 30 megawatts, and to include the case of a turbine which is associated with a natural water feature without the need for any impoundment. Additionally, the Federal Regulatory Commission is allowed under the Federal Power Act to exempt projects below 5 megawatts from certain licensing requirements on a case-by-case basis.

The Secretary of Energy is required to promulgate regulations to implement the financial assistance programs for small-scale hydro in the National Energy Act within six months, and to prepare a study of Federal small-scale hydro commercialization programs. Additionally, an extension is provided of the \$110 million authorization in the National Energy Act for each of the two fiscal years 1981 and 1982.

SOLAR ENERGY AND ENERGY CONSERVATION (TITLE V)*Solar Energy and Energy Conservation Bank*

A Solar Energy and Energy Conservation Bank will be established in the Department of Housing and Urban Development (HUD) to provide subsidized loans to persons who make energy conservation improvements or install solar applications in residential or commercial buildings. The new Bank will exist until September 30, 1987, with the same corporate powers as the Government National Mortgage Association.

The Bank will have a President, an Executive Vice President for Solar Energy, and will be governed by a Board of Directors. The Board will be composed of the Secretaries of HUD (designated as Chairperson), Energy, Treasury, Agriculture and Commerce. Serving the Board will be Advisory Committees on Solar Energy and Energy Conservation.

The Bank will be authorized to make payments to local financial institutions willing to provide below-market rate loans or a principal reduction on loans to borrowers for solar and conservation improvements. Eligibility for subsidized loans would depend upon both the income of the borrower and the type of structure to be improved.

Assistance for energy conservation improvements would be provided to owners and tenants of existing one-to-four-family residential buildings whose household income does not exceed 150 percent of area median income levels (approx-

mately \$25,000). The maximum subsidy available for a single-family residence would range from 20 percent of the project cost (with a \$500 limit on the subsidy) for borrowers with incomes between 120–150 percent of area median (approximately \$20,000–\$25,000) to 50 percent of the cost (with a \$1,250 limit on the subsidy) for borrowers with incomes below 80 percent of area median (approximately \$13,500). The following table summarizes the maximum subsidy levels based on income for one-to-four-family residential buildings:

Income level of borrower	Maximum subsidy levels				
	Percent	1 unit	2 units	3 units	4 units
<80 percent of area median.....	50	Up to \$1,250	Up to \$2,000	Up to \$2,750	Up to \$3,500
80 to 100 percent of area median.....	35	875	1,390	1,915	2,440
100 to 120 percent of area median.....	33	750	1,200	1,650	2,100
120 to 150 percent of area median.....	20	500	800	1,100	1,440

Subsidy levels for conservation improvements also would be established for multifamily and commercial buildings at a maximum subsidy rate of 20 percent of cost up to \$400 per unit for multi-family buildings, and 20 percent of cost up to \$5,000 for commercial buildings.

Assistance for solar energy projects would be provided to owners or builders of residential and commercial buildings. For one-to-four family residential buildings the maximum subsidy would be: 60 percent of cost for owners whose income is below 80 percent of area median income (approximately \$16,000); 50 percent of cost for owners whose income is between 80–160 percent of area median income; and 40 percent of cost for owners whose income is above 160 percent of area median income (approximately \$32,000).

For a single residence, the maximum subsidy would be \$5,000. For a two-unit residential building, the maximum subsidy would be \$7,500; and for a three-to-four-unit building, the maximum subsidy would be \$10,000.

The maximum subsidy for multi-family (5 or more units) residential buildings would be 40 percent or \$2,500 per unit. For commercial buildings (including certain agricultural buildings), the maximum subsidy would be 40 percent or \$100,000. Builders would be eligible for up to 40 percent subsidies at the limits specified above. Any subsidy for a subsequent owner could not cause the combined subsidy to exceed the builder limit.

Solar Energy and Energy Conservation Bank authorizations include \$2.5 billion for fiscal years 1981–1984 for conservation purposes, and \$525 million for fiscal years 1981–1983 for solar purposes. Up to \$10 million in fiscal year 1981 and \$7.5 million in fiscal year 1982 and thereafter would be available annually out of each appropriation to promote the solar and conservation loan programs.

Residential energy conservation grants

A Residential Energy Conservation Office would be established within the Department of Energy to supervise a State-run grant program in which the Federal government would share the cost of residential energy conservation measures.

A matching grant program for energy conservation expenditures is set up for persons whose income is 50 percent of the area median income or below. Under the grant program, the Solar Energy and Energy Conservation Bank could set a maximum subsidy level of 50 percent of the cost of conservation measures up to a maximum of \$1,250 (1 unit), \$2,000 (2 units), \$2,750 (3 units) or \$3,500 (4 units), and \$1,000 per unit in multifamily buildings. No grant would be provided unless it applies to a total conservation expense of at least \$250.

The Conservation Bank would require a grant applicant to provide the lending institution with 50 percent of the cost of the conservation project or to certify that such amount will be available upon completion of the project when the grant is made to the installing contractor. For any person who will perform the work or purchases the materials directly, similar assurance of financial resources would be required. The financial institution shall provide the grant by means of a check payable to the supply company from which the materials are to be purchased. Also, persons receiving grants would be required to complete a simple application form.

No less than 15 percent of the funds authorized for conservation under the Solar Energy and Energy Conservation Bank will be reserved for residential energy conservation grants.

Residential energy efficiency program

The National Energy Conservation Policy Act (P.L. 95-619) is amended to authorize the Secretary of Energy to establish a program to ascertain the conservation effectiveness of contracting with private energy conservation companies to conduct systematic residential audits and install energy conservation measures throughout defined geographic areas. Such companies would be compensated under contracts with State or local agencies according to energy actually saved.

Initially, up to four demonstration projects could be authorized, with DOE reporting to Congress after two years on progress of the demonstrations. Participation in the program is voluntary. Public hearings must be held before the program is undertaken.

A utility would contract with one or more energy conservation companies to purchase saved energy at a price and over a period of time determine by negotiation. The price would be based on the value of the energy saved over the contract period.

The Federal Energy Regulatory Commission would be authorized to prescribe rules to exempt under certain conditions the sale or transportation of conserved natural gas from certain laws in order to promote greater residential energy efficiency.

The energy conservation companies must undertake a house-by-house, block-by-block retrofit of homes in designated areas. The companies must be independent of the utility and selected in a fair, open and nondiscriminatory manner.

Funding for the demonstration projects would be authorized at a total of \$10 million for fiscal years 1981 and 1982. Funds could be paid only to States or local units of government.

Utility residential conservation programs

The conference agreement includes several amendments to the portion of the National Energy Conservation Policy Act (NECPA) which requires the nation's larger electric and gas utilities to establish "utility programs" offering residential customers inspections and management services in arranging for the installation of certain residential energy conservation measures. These amendments provide for—

A removal of the Federal prohibition in NECPA on the financing of residential energy conservation measures by utilities;

Assurance that utilities will seek funds for the financing of utility programs from local financial institutions as well as traditional sources of funds;

Elimination of Federal rules with respect to utility cost recovery under utility programs with one exception: the charge to a customer for an inspection under any utility program may not exceed \$15;

Establishment of one year manufacturers', suppliers' and installers' warranty requirements for measures installed under any utility program; and

Modification of the Federal prohibition in NECPA on utility supply or installation of residential energy conservation measures to permit utilities to subcontract with qualified independent firms for such supply or installation provided that these activities meet certain tests related to preservation of competition.

Energy auditor training and certification

The Secretary of Energy is authorized to make grants to States to support training and certification of energy auditors of residential and commercial buildings. The Secretary also shall develop training standards, sufficiently flexible to permit innovation in training and auditing techniques, to be used by the States receiving assistance.

An "energy audit" is an onsite inspection by a trained and certified auditor of a residential or commercial building to evaluate, and provide useful information on the various energy-related aspects of the building, as appropriate. The energy audit may deal with the potential of the building for improved energy efficiency, for enhanced utilization of renewable resources, and for switching from one fuel

source to another, and may include actions by the auditor to improve the energy efficiency of, or to make other energy-related improvements in the building.

Training and certification programs would be managed by the States and conducted by the States, local or regional governments, utilities, or private firms.

To be eligible for financial assistance under the auditor training program, the Governor must submit an application to the Secretary of Energy, containing such information as the Secretary may require. The application shall also contain an assurance that the financial assistance provided will be used to supplement State or local funds, and to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of the auditor training program.

Funding for this program is authorized at \$10 million for fiscal year 1981 and \$15 million for fiscal year 1982, which shall remain available until expended.

Industrial energy conservation

The Secretary of Energy is authorized to accelerate research, development, and demonstration of energy productivity in industry not to exceed \$40 million for each of fiscal years 1981 and 1982, in addition to funds authorized for this activity in other measures for high pay-off Industrial Conservation Demonstration projects under the existing DOE program.

Weatherization grant program

The low-income weatherization assistance program authorized by Title IV of the Energy Production and Conservation Act (P.L. 94-385) would be amended to limit administrative expenses to not more than 10 percent of any weatherization grant and not more than one-half of such amount may be used by any State for such purposes.

The Secretary of Energy also would be authorized to increase the \$800-per-dwelling-unit-limit to not more than \$1,600 to secure installation of weatherization materials where the Secretary determines that an insufficient number of volunteers, training participants and public service employment workers are available.

For any dwelling unit, the limit on the cost of making incidental repairs necessary to make the installation of weatherization materials effective is increased from \$100 to \$150.

The priority for the management of local weatherization programs given to Community Action Agencies is repealed. However, a preference is given to a CAA to continue managing a weatherization program where it has demonstrated that its program is an effective one.

GEOHERMAL ENERGY (TITLE VI)

The Geothermal Energy Act of 1980 establishes financial assistance programs in DOE to promote exploration and confirmation of geothermal reservoirs, and provides funding for feasibility studies and construction of specific geothermal projects.

DOE is also directed to conduct a reservoir insurance study in cooperation with the insurance and reinsurance industry.

A total of \$85 million in Federal loans and loan guarantees for geothermal reservoir confirmation is authorized for Fiscal Years 1981 to 1985 (including \$5 million for FY 1981 and \$20 million for each fiscal years 1982 through 1985). In addition, \$5 million is authorized for feasibility studies in FY 1981. Funding for construction loans is deferred until FY 1982.

A number of other amendments were made to ease the regulatory burdens on small geothermal plants and to provide special help for direct heat utilization projects.

STUDIES (TITLE VII)

Acid precipitation

The Acid Precipitation Act of 1980 would establish an interagency task force to conduct a comprehensive ten-year research program to identify the causes and effects of acid precipitation. The Acid Precipitation Task Force would be jointly chaired by the Administrators of the National Oceanic and Atmospheric

Administration (NOAA) and the Environmental Protection Agency (EPA) and the Secretary of Agriculture.

The comprehensive plan for the ten-year program shall encompass a number of programs including: identifying the sources of atmospheric emissions contributing to acid precipitation; establishing and operating a nationwide long-term monitoring network to detect and measure levels of acid precipitation; research in atmospheric physics and chemistry to facilitate understanding of the processes by which atmospheric emissions are transformed into acid precipitation; and analyzing the information available in order to formulate and present periodic recommendations to Congress and the appropriate agencies about actions to be taken to alleviate acid precipitation and its effects.

For the purpose of establishing the Task Force and developing the comprehensive plan there are authorized to be appropriated \$5 million to NOAA to remain available until expended.

Authorization of appropriations for the succeeding nine years for the comprehensive ten-year plan and program will be provided in subsequent authorization acts. The total sum of dollars authorized shall not exceed \$45 million except as may be specifically provided.

Carbon dioxide study

The Director of the Office of Science and Technology Policy (OSTP) shall enter into an agreement with the National Academy of Sciences to carry out a comprehensive study on the projected impact of fossil fuel combustion, coal conversion and related synthetic fuels activities, and other sources on the level of carbon dioxide in the atmosphere. This study should also include an assessment of the economic, physical, climatic and social effects of such impacts.

A report including major findings and recommendations resulting from the study shall be submitted to the Congress not later than three years after enactment of this Title.

The determination as to the expenses which will be required to conduct this study shall be made by OSTP but shall not exceed \$3 million, of which at least 80 percent of the amount appropriated shall be provided to the National Academy of Sciences.

STRATEGIC PETROLEUM RESERVE (TITLE VIII)

The conferees agreed to require the Federal Government to commence filling the Strategic Petroleum Reserve (SPR) at a minimum average rate of 100,000 barrels per day. In addition, if this specified SPR fill rate is not achieved, then any production from Naval Petroleum Reserve No. 1 (Elk Hills) must be sold or exchanged so as to be stored in the SPR. Exceptions to this fill requirement would apply if at least 500 million barrels of crude oil are stored in SPR, where the Elk Hills oil is sold to small refiners under section 7430(d) of title 10 of the U.S. Code, if (a) the oil is produced to prevent a reduction in the amount of ultimate recovery from the Elk Hills reserve, or (b) the oil is produced for national defense purposes under section 7422(a) of title 10, U.S. Code, or (c) if a drawdown of the SPR occurs, or (d) if the President requests a suspension of the fill rate requirement and the Congress approves by a resolution of approval in each House.

The conferees also agreed to:

Remove the one year contract limitation on sales of associated gas from the Naval Petroleum Reserve;

Authorize the President to provide with appropriate reimbursement, petroleum directly or by exchange from the Naval Petroleum Reserves to the Department of Defense for their petroleum product needs. The small refiner set aside in existing law would be preserved. Exchanges of oil would not be subject to Federal procurement statutes.

In summary, the authorizations in the Energy Security Act (S. 932) are as follows:

DOE's authority to obtain oil for the SPR would be made more flexible, including authorizing DOE to conduct exchanges of Naval Petroleum Reserve oil or other oil for the SPR without having to follow the usual procurement laws and regulations and eliminating the requirement that DOE submit amendments to the Strategic Petroleum Reserve Plan prior to taking actions authorized under this Act.

The conference agreement directs the President to amend the regulation under section 4(a) of the Emergency Petroleum Allocation Act so as to have the effect of allocating lower tier oil to the Federal Government for acquisition to deposit in the Strategic Petroleum Reserve (SPR). Given the limited financial resources available to purchase oil for the SPR, this would increase the amount of oil that can be obtained to fill the SPR. The President shall implement this requirement through the use of the entitlements program, but not with respect to any crude oil acquired after September 30, 1981, for storage in SPR. In addition, the agreement provides the President with discretionary authority (1) to place Federal royalty oil in the Reserve; (2) to exchange, either directly or indirectly, Federal royalty oil for other oil to be stored in the SPR; or (3) to transfer proceeds from the sale of Federal royalty oil to a special Treasury account to be used to acquire more crude oil for the SPR.

The special Treasury account into which are deposited the proceeds from the sale of entitlements and royalty oil is available for use by the Secretary of Energy to purchase crude oil for the SPR, but such use is subject to any DOE authorization bill, and advance appropriation (after the date of enactment of this Act) is required.

There is one exception. Amounts in the account which are proceeds from the sale of entitlements under subsection (a) are available to the Secretary for fiscal year 1981 without any further appropriation.

SUMMARY OF AUTHORIZATIONS

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985	Other
Title I.....	\$ 20,000					\$ 68,000
Title II.....	\$ 1,450	(?)				
Title III.....						
Title IV.....	120	110				
Title V.....	\$ 360	\$ 880	\$ 1,025	875		
Title VI.....	\$ 10	20	20	20	20	
Title VII.....	5	(?)	(?)	(?)	(?)	\$ 45
Title VIII.....						
Total.....	21,945	1,010	1,045	895	20	68,045

* Up to \$3,000,000,000, subject to appropriations, is available for synthetic fuels projects under the Defense Production Act (part A).

* Upon congressional approval of the comprehensive strategy, up to an additional \$68,000,000,000 could be authorized for a total of \$88,000,000,000.

* Authorizations for fiscal years 1981 and 1982, are, in the aggregate, \$1,200,000,000 for the comprehensive biomass and alcohol fuels activities (part A), and \$250,000,000 for urban waste activities (part B).

Under part A, \$600,000,000 will be available for USDA activities, and \$600,000,000 will be available for DOE activities.

* Title V authorizations for fiscal year 1981 include the following amounts for:

	Millions
Conservation.....	\$200
Solar.....	100
REEP (total for fiscal years 1981 and 1982).....	10
Auditor training.....	10
Industrial.....	40
Total.....	360

* Title V authorizations for fiscal year 1982 include the following amounts for:

Conservation.....	\$825
Solar.....	200
REEP included in fiscal year 1981.....	
Auditor training.....	15
Industrial.....	40
Total.....	880

* Title V authorizations for fiscal year 1983 include the following amounts for:

Conservation.....	\$800
Solar.....	225
Total.....	1,025

* \$875,000,000 is authorized for the Energy Conservation and Solar Energy Bank for conservation purposes.

* Title VI authorizations for fiscal year 1981 include \$5,000,000 for geothermal reservoir confirmation, and for feasibility studies.

* \$45,000,000 is authorized under title VII for fiscal years 1982-90 for the comprehensive 10 yr acid pr research program.

Disclaimer: This summary was prepared by the Staff of the Committee on Energy and Natural Resources for information purposes only and does not fully present the tentative conference agreement. The final agreement of the conference will be reflected in the conference report only.

Contact: Richard D. Grundy (49894), Michelle R. McElroy (42219): Press Inquiries, June 2, 1980.

(Mr. Stewart assumed the chair.)

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, that great philosopher Pogo had a remark which I think sums up this country's energy problems. He said, "We are surrounded on all sides by insurmountable opportunity."

This bill, S. 932, the synthetic fuel bill, the Energy Security Act of 1980, is the first long step toward surmounting that opportunity, toward getting this country moving.

My distinguished colleague from Washington (Mr. Jackson), put the first synthetic fuel bill in in 1975, and we were able to pass it at that time.

Indeed, our synthetic fuels efforts in this country go back even before the Jackson bill of 1975. They go back to the first retort for shale oil back in Rifle, Colo., in 1906. But here we are in 1980, Mr. President, finally beginning to move on synthetic fuels.

This bill is the first long step toward finally getting this country on the road to energy independence. It has taken a long time, beginning with the Jackson bill in 1975, beginning with floor passage of this bill on November 8 of 1979, when the Senate passed a bill to establish the United States Synthetic Fuels Corporation to encourage the creation of a synthetic fuels industry in the United States. The House of Representatives had previously passed a bill with similar objectives; but implemented through the Defense Production Act rather than a new Federal entity.

Today, the Senate is considering the conference report on the Energy Security Act. The conference has been a long and complicated one. But it has been a constructive and bipartisan effort. There has been no basic disagreement between the Senate and the House concerning the need for a major synthetic fuel initiative in this country. There really has been very little disagreement among the conferees about the principal components which such an initiative must have.

Similarly, there has been general agreement that the synthetic fuels initiative should be accompanied by new and expanded Federal support for energy conservation, solar, geothermal, alcohol, and other renewable and alternative energy measures. No single response to our national energy crisis can alone make the difference. We will have to aggressively pursue every opportunity.

The conference has been long and difficult, not because of basic disagreement, but because of the magnitude and complexity of the programs and policies which are necessary to achieve the objectives of this act.

Mr. President, this bill is the joint effort of many, many people, not only the distinguished Senator from Washington, Mr. Jackson, the chairman of the Energy Committee, but particularly our Republican colleagues, Senator Hatfield, the ranking minority member of the Energy Committee and Senator Domenici, who put in a bill from which many of the concepts were taken. His hard work and cooperation were very important to this measure.

The chairman of the standing committees in the Senate, including Mr. Proxmire and Mr. Talmadge, of the Banking, Housing, and Urban Affairs Committee and Agriculture, Nutrition, and Forestry, respectively; and in the House, the majority leader, Mr. Wright; Mr. Moor-

head, the chairman of the Banking Subcommittee; Mr. Dingell, who is chairman of the Energy and Power Subcommittee, played very important parts, as did Chairman Fuqua of the Science Committee and Mr. Ashley of the Banking Subcommittee, and Mr. Foley of the Agriculture Committee.

The conference agreement preserves all of the critical provisions of the Senate bill. The most significant difference has been to supplement the Synthetic Fuels Corporation's program by providing for an interim effort under the Defense Production Act of 1950 which would provide initial Federal assistance to synfuels proposals to meet defense needs during the Corporation's organizational period. Furthermore, standby authorities would be provided to the President to act under the Defense Production Act to augment synfuels activities in times of a national energy emergency to meet defense needs.

Mr. President, we have done a great deal in this bill. First of all, we have established authority for a United States Synthetic Fuels Corporation. It will be operated as a Federal entity, under a seven-member board appointed by the President but operating independently of the Congress in the sense that the Corporation's funding will not be on the basis of annual project-by-project approvals, but the total \$20 billion phase I funding will, under the bill and under Appropriations Committee action, be made available in one increment, thereafter to be obligated by them independent of Congress.

We also have an Energy Conservation and Solar Bank, some \$825 million in scope. We have a gasohol program, \$1.2 billion in scope. We have a provision for targets and goals for energy conservation and energy use in this country, which will require the President to submit and Congress to approve energy targets and goals for the production and consumption of energy in 5-year increments from now to the year 2000.

Mr. President, we will never have an energy policy until we take that action, until we decide where it is we want to go and how it is we expect to get there. Otherwise, the future will be the same kind of disarray, in terms of energy, that the past has been.

These procedures for targets and goals will lay out that plan, that road map, for both the administration and Congress so that we can say, once that is adopted, that we do have a national energy plan which will tell us how much coal, how much nuclear energy, how much solar energy, how much energy from hydroelectric sources, how much of each resource we expect to produce and consume in each of the outyears.

We have a utility conservation program that will be very important; renewable energy, including photovoltaic, low-head hydroelectric, and geothermal programs as well as a special provision on energy self-sufficiency is principally designated for the Island of Hawaii. We have an acid precipitation provision to begin the study of that very difficult phenomenon that threatens our lakes and their productivity in terms of fish, and threatens our croplands, principally, from the burning of coal.

Finally, Mr. President, the last piece put into the puzzle was an amendment on the strategic petroleum reserve. The conferees, without a dissenting vote on this particular provision, first provided that the Government would have to resume a filling of the strategic petro-

leum (oil) reserve at a rate not less than 100,000 barrels per day and continue at that rate. We also provided that oil cannot be withdrawn from the Elk Hills Reserve, unless that 100,000-barrel rate is met. In effect, that means that the administration must meet the 100,000-barrel-a-day goal, because you must withdraw the oil from Elk Hills.

What we are trying to do and did, in fact, accomplish in this conference report is to lock in the requirement to make it, I believe, fool-proof, to leave at least that 100,000 barrels a day going into the Nation's strategic petroleum reserve.

We also provided, Mr. President, that the Government's purchases for the strategic reserve shall be on a basis of lower tier prices. Mr. President, lower tier prices for oil are now running at about \$7 per barrel. What, practically, this amendment means is that the Government, with the same amount of dollars, will be able to acquire five or six times as much oil as it could have under the old program, because, under the old program, if the Government brought lower tier oil at \$7 a barrel, they would have to pay into the entitlements fund, bringing their average cost of oil up to the average world price. Similarly, if they bought oil at the average world price, they would have to pay that average world price, which was, in my judgment an artificial requirement. The Government should have been able to purchase the oil at the lower tier price without paying an entitlement penalty, which is principally a program for refiners.

What we have done here is not only give them the right to acquire oil at lower tier price, but acquire oil at any price and have the difference made up by the entitlements fund which will, in effect, guarantee the Government the right to acquire oil at lower tier prices. Any oil acquired will be at \$7 per barrel, or whatever the lower tier price is at that time, which will be very close to \$7 a barrel and will enable the Government to purchase five or six times as much oil.

Mr. President, in 1973 we had the first oil shock, attenuated by gas lines, by the October war and its embargo, by a shaking to the very foundations of the sensibilities, the psyche, of the American people. That oil embargo, first made us realize that we were, in fact, dependent on some sheiks in some far distant land, that this country was, in fact, not self-sufficient in everything, as many Americans thought at that time.

Since that time, Mr. President, the American people and the Congress to a large extent have been transfixed like a rabbit before a snake, immobilized, unable to act, unable to strike out with any bold action, unable to shake off the chains of energy dependence, indeed, as some have described, a sleeping giant.

It takes this country a long time to get aroused, Mr. President, it takes the sleeping giant a long time to awaken. We have seen this time after time in wartime, as it takes us a long time to mobilize.

What S. 932 says, Mr. President, is that the sleeping giant is at long last beginning to awaken; that we are beginning to take those first bold steps that will, in fact, insure not immediately but in the outyears our energy independence.

I do not mean to overstate or make claims that are too great for S. 932 because, indeed, it does not solve the whole energy problem. But it does make a first step. We still have problems of coal, of nu-

clear, of oil and gas leasing, of the whole energy spectrum yet to be solved. But by S. 932 we take those first steps to give us gasohol in the short term, to begin to take important steps in conservation, with the Energy Conservation and Solar Bank, and to give us in the out-years large amounts of synthetic fuels, 500,000 barrels a day by 1987, 2 million barrels a day by 1992.

At long last, Mr. President, the United States is beginning to act and S. 932 proves that fact.

Mr. President, as I said earlier today the Senate will consider the conference report on the Energy Security Act, S. 932, and will determine whether the United States is ready in 1980 to take the essential step to free itself from its unacceptable dependence on imported petroleum. That step is the development of the capability to produce gaseous, liquid, and solid hydrocarbons from abundant domestic resources of coal, shale, tar sands and heavy oils. This is a step we have failed to take several times in the past when specific opportunities were presented. It is a step we must take now.

The world price of crude oil is now limited only by the fear of the oil producing countries that further price increases will bring economic chaos and ruin their investments which are measured in the currencies of the consuming countries. The minute the oil producer cartel convinces itself that the Western economies have managed to absorb the latest round of increases in energy costs, it imposes another one on us.

So our efforts to adjust to higher and higher energy prices will ultimately fail unless we take that essential step to establish a program to set a limit on the price we can be forced to pay for oil.

There is only one real way to set such a limit. That is to develop the capability to produce other domestic sources of energy, particularly gaseous and liquid hydrocarbon fuels, as alternatives to imported oil.

That is the purpose of the Energy Security Act, S. 932, as agreed to by the Senate House conference on Monday of this week. This bill establishes the fundamental elements of Federal policy to develop the real alternatives to imported oil:

A comprehensive, credible commitment to develop synthetic gaseous, liquid, and solid fuels from abundant domestic resources of coal, shale, tar sands, and heavy oil;

The largest, most flexible set of energy conservation initiatives ever enacted by the Congress, including authority which will result in nearly \$2,140,000,000 in Federal outlays for energy conservation between now and 1985 (and a far greater expenditure of private funds) to produce energy by improving the efficiency with which we use it;

A major effort to speed the production of gasohol, derived from abundant domestic biomass, as a substitute for the commodity which is most affected by our need for imported oil: high octane, unleaded gasoline; and

Initiatives in solar energy, and other renewable sources of energy which, taken together, constitute a watershed in Federal commitment to a mature, major program to commercialize alternative renewable sources of energy.

The Energy Security Act is comprehensive. Its major provisions complement and reinforce each other. Each of these provisions is

needed if an effective policy is to be established. In the case of this measure, the whole is greater than the sum of its parts.

This concept is important, because it is evident that a meaningful synthetic fuels program must be accompanied by many of the other key provisions of the Energy Security Act.

The United States Synthetic Fuels Corporation, established by the measure, is authorized \$20 billion in the first phase of the synthetic fuel program, and, ultimately, \$88 billion; if Congress approves the comprehensive production strategy and additional authorizations and appropriations.

Mr. President, these elements of the Energy Security Act are precisely the ones which guarantee the credibility—to OPEC and to the world—of the commitment of the United States to the development of domestic alternatives to imported oil. The essential features of the conference committee proposal are three:

First, we need a Synthetic Fuels Corporation. We do not need a replica or, worse, some segment of the existing energy bureaucracy. The Synthetic Fuels Corporation will be a financial institution with technical expertise but first and foremost a financial institution. While subject to congressional oversight it will not be snarled in the redtape which so characterizes the bureaucratic experience. The Corporation will be able to make realistic and credible commitments to private industry for large projects with long lead times without the uncertainty of year-to-year budgetary second guessing.

The United States Synthetic Fuels Corporation is a *sui generis* special purpose Federal entity to carry out the national synthetic fuel development program established in this part. Under this part the Corporation will provide financial assistance to the private sector for the purpose of bringing about the commercial production of synthetic fuel by private industry.

In order to expedite the achievement of the highly important national objectives of the legislation and obviate the delays that often beset programs administered by the departments and agencies of the executive branch this entity is established free of many of the constraints placed on such departments and agencies.

Second, there is a significant Federal commitment of funds of sufficient size to attract, and support, a broad spectrum of private sector efforts at synthetic fuels commercialization. This commitment by the Congress is credible in financial terms and large enough to permit more than the few major international oil companies to participate.

This Federal synthetic fuels policy will permit the initiation of a diverse group of commercial scale projects. Actual experience—as opposed to conjecture and study—can then provide us with the necessary information upon which to base decisions to move forward. The key is diversity. It represents a series of options we should long ago have begun to clarify with real experience. We as a nation can no longer afford to wait for others to decide whether or not to investigate these options further.

Mr. President, I now yield to my distinguished colleague, Senator Hatfield, the ranking minority Member, with my thanks to him for his great work, to the minority for their great work, and particularly

to Senator Domenici, who is not here at the moment, for his hard work.

I would like to say one final thing, Mr. President. This whole year we have had total cooperation from the minority in the field of energy. I think it speaks well for the minority. I think it speaks well for the country that on this critically important subject we are able to get together and lay aside partisan differences. We are going to continue to have partisan differences on bills like the Department of Justice authorization bill that was pending before this matter was brought up, but I hope we will continue with this same bipartisan spirit on energy matters.

Mr. HATFIELD. Mr. President, I express my appreciation for the kind remarks made by the Senator from Louisiana. This cooperation, which has been very real, is basically due to the simple reason that this is a subject which transcends partisan and philosophical differences. Of course, the minority has been as keenly concerned about these matters as the majority, and we have enjoyed this working relationship. I am hopeful that it will continue on many other issues. Perhaps this morning as we take up this matter we will bring the Senate back to this kind of cooperation. For this, indeed, it would be a very well timed bill.

Mr. President, the Energy Security Act represents congressional determination to break the economic and technological impasses that have left America energy-weak and imports-dependent. Were this simply a synthetic fuels act, it would not represent such determination. But I believe that all who read this act will understand that it is more than that.

Congress is recognizing, in the titles of this bill beyond the synfuels, that energy conservation and renewable energy resources are critical components to our energy solution. In fact, we are finally beginning to treat conservation as though it were a fuel.

In this bill, we are literally buying barrels of conservation, cubic feet of conservation, metric tons of conservation, and kilowatt-hours of conservation. There is no cheaper source of new oil, gas, coal, or electricity than conservation, unless OPEC happens to cut their prices back to the real cost of production.

The actions of the foreign oil cartel have been both a stimulant and a depressant to American energy development. On the one hand, the higher prices of foreign oil have made the more expensive alternatives economically more attractive. On the other hand, the oil price increases have been so precipitous, so unpredictable, and so unrealistic in relation to true cost, that they have paralyzed our economic decisionmaking and shaken our very economic foundations.

Ours is an economy based on cheap oil. High and unstable oil prices send shock waves rippling throughout American enterprise, including the American effort to develop new energy resources. It is the responsibility of Government to act to stabilize such a situation. That is exactly what the Energy Security Act does for synthetic fuels development.

But, again, I want to emphasize that synthetic fuels are not a complete response to the American energy problem—first, because they have no short-term impact; and second, because we cannot consume

them with the same voraciousness with which we have consumed our conventional oil and gas resources. They will be too expensive for the traditional American energy appetite.

The only application of energy-related technology which can have a large impact in the near term is conservation. We can and will, through this bill, back foreign oil out of our economy with conservation, and at a cost that is less than half the going OPEC rate.

We also can and will, through this bill, make a near-term difference by applying certain renewable energy resource technologies to the task. They, too, are available at costs below that of international oil.

Mr. President, in the Energy Security Act, title V, the "Solar Energy and Conservation Act of 1980," establishes a system for assisting through America's financial institutions the installation of conservation and solar measures by residential, commercial and agricultural energy users. It removes the Federal prohibitions on utilities in financing, supplying and installing such measures for their customers, so that the pioneering experience of Oregon's Pacific Power & Light Co. and Portland General Electric Co. might be applied elsewhere in the country.

It authorizes pilot projects for advanced delivery systems for conservation measures in the home, expands the residential conservation service program, extends the weatherization program, and accelerates conservation research and development.

I view it as just a first step. We will have to do more in order to turn the corner on energy, but I am very pleased with it as a first step.

Mr. President, I strongly support passage of the conference report on S. 932. I commend my colleagues on the committee of conference for their months of very difficult work, especially our subcommittee chairman and co-chairman of the conference (Mr. Johnston) and the ranking Republican on the subcommittee (Mr. Domenici), who, as the Senator from Louisiana indicated earlier, introduced the original bill dealing with the establishment of a synthetic fuels agency in this Congress. His work in previous Congresses, as well, laid the foundations for this bill.

I want to take some time, Mr. President, to commend the joint staff with whom we have worked over these long months. Mr. President, we come on the floor and oftentimes pay tribute to each other, very much in a traditional and sometimes cursory manner and we pay tribute to the staff in a similarly traditional way. But I want to say in this particular instance, which is only representative of many others that I could enumerate, that the staff on both sides has performed labor far beyond the call to duty. They have worked, literally, from 8 a.m. to midnight over a period of the last 20 consecutive days in order to turn hundreds of pages of conference agreements into a statute.

I think it is a good example of why we have specifically exempted Congress from unionization. I am sure after conferences like this the committee staffs would be prime areas for unionizing. These kinds of hours and, oftentimes, working conditions and, in many instances, the wages paid would all be prime targets in a union movement. I think this is an example of the dedication and the devotion of these individuals.

[illegible]

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

2. Once the problem is identified, the next step is to define the objectives and goals of the project. This helps to clarify what needs to be achieved and provides a clear direction for the team.

3. The third step is to develop a plan or strategy to address the problem. This involves breaking down the problem into smaller, manageable tasks and determining the resources needed to complete them.

4. The fourth step is to implement the plan. This involves putting the strategy into action and monitoring progress regularly to ensure that the project is on track.

5. Finally, the fifth step is to evaluate the results of the project. This involves assessing whether the objectives have been met and identifying any lessons learned for future projects.

This report is a good provision, and I think the Nation is owing for this kind of provision for a long while. We have not had to have been a contributor. But I have been a minor contributor to the major job that has been carried out by the New Mexico on our side of the aisle and the Senator, too, on the other, and many other Senators.

26 titles in their bill, then my colleagues here in the Senate can understand how difficult this conference report was to accomplish.

[also want to thank Senator Hatfield, our ranking Member, not only for his kind words, but, in a very real sense, he was the ranking publican, and knowing that I was involved in the synthetic fuel, security corporation, aspects, he most generously permitted me to only take care of the bill in committee, but to take the lead in inference. I want him to know I am most appreciative.

[also want to say here that I really could not have done the detailed difficult work on the corporation, or the other titles, without the absolutely excellent contribution of the Senator from Idaho (Mr. Clure).

Having said that, I will quickly say to the Senate, that the titles that refer to the solar bank, to the conservation bank, to geothermal, to oil, obviously, have already been addressed. They are of tremendous importance. Conservation is an absolutely important ingredient in our energy future.

The other alternates promoted, solar, geothermal, wind, biomass, obviously, make this a superb package.

[will spend a few moments talking about synthetic fuels.

[believe today, and when the House passes this conference, that we are about to witness the birth of a new industry. That is what this is all about.

The solutions to America's energy crisis will not be simple, in this Senator's opinion. The solutions are not going to be as forthcoming and timely unless we are willing to be innovative, to try things we have never tried before.

In this instance, it appears to me that whether or not the United States of America is going to have a synthetic fuel industry—and I use the word "industry" in its broadest sense to mean the infrastructure, the ability to manufacture the parts, the manpower that can put together, literally, billions of dollars worth of synthetic fuel plants might very well have come in due course in this country without this bill. The ability to use the 600 years of coal, the 200 million barrels of oil locked in shale, and the 30 billion barrels locked in tar sands, might have all come, one day or another.

But I predict they would be a long time in coming because of difficulties encountered in how long it takes to get permitted, and how difficult it is to finance.

In today's energy market, plants cost anywhere from \$1 to \$3 billion, take anywhere from 5 to 9 years to build, require manpower on site between 2,500 full-time workers, as high as 9,000 or 10,000 to construct them, and we have not, as of today, tried as single one.

So I perceive that what we are doing here in a marriage between the Federal Government and the private sector, an innovative and diverse partnership, is that we are giving birth to a new and exciting industry which will move America significantly down the road toward energy independence.

At the bare minimum, in a few years, we will know, as a people, whether or not these huge resources that are convertible through the synthetic processing, will be available over the next 10, 20, 30, or 40 years for Americans in the form of natural gas, in the form of liquid petroleum, and other combinations thereof.

While I am today grateful after many many months that we are giving birth to this new industry, I am aware that it will be difficult. It will take a rare combination of good leaders appointed to the corporation board, and a commitment on the part of the private sector of America, to come forth with significant ingenuity and to take some significant risks, for while we will aid them with financing, they will have to put up 25 percent of the equity. For a \$2 billion plant that may take 9 years to build, that is a rather significant commitment.

That last might indicate why we have to try something different and innovative, why we cannot have the bureaucracy of the Department of Energy managing this approach, and why I think we opted, quite properly, for an independent Federal entity, not truly a corporation in every respect, but an entity with the autonomy and inhibitions this statute itself both gives to it and burdens it with.

Having said that, I predict today, and with reasonable certainty, that we will reach the goal of 500,000 barrels of oil equivalence by 1986. I predict that we will reach the goal of 2 million barrels by 1992.

In fact, I am confident that by the time that last date arrives, unless we run into some environmental or technical problems which will be evaluated in the phasing of this bill, that we will produce more than 2 million barrels by 1992, and that this bill will be the vehicle to break the OPEC stranglehold on America if we will follow through with it, insist on excellence, and if our President will appoint the kind of people to this board, the kind of people that are here in this country that are capable of managing an effort of this type and that will do so, not for financial gain, but because they are part of an exciting venture, moving America toward energy independence.

Last, I predict that when we finally have completed our mission that this will not have cost the American taxpayer any money.

I am absolutely confident and predict that when we have completed these synthetic fuel plants, their product in the marketplace will have reached a value that will assure that the Federal Government will be repaid its loans, its loan guarantees, and whatever financial assistance has been forthcoming.

When I approach it that way, and I hope the Senate does today when we vote, and I hope by overwhelming numbers in support of this, it seems there could be no logical reason for not approving this kind of approach.

If we get started quickly and the price of oil continues to rise, we will be producing synthetic fuels from various technologies, from both coal shale and tar sands at prices that this Senator is confident will make those investments excellent marketplace investments. We will be repaid all the money we invested and America will be the better for it.

Mr. President, there are many other portions of this bill that are significant.

There is the strategic reserve, which the distinguished Senator from New Jersey, now managing the bill for the majority, has been vitally interested in.

Certainly, we have found a way, I believe at a minimal cost to the American taxpayer, to begin at least 100,000 barrels a day fill, and hopefully more.

These are all important parts of America, through its elected representatives, even with diverse views and diverse philosophies, coming together and making one major effort in this bill to direct our private sector resources and our governmental efforts toward breaking the stranglehold of the OPEC cartel, and making this great Nation of ours energy independent as soon as possible, while we are also able to participate as world players.

Mr. PROXMIRE. Mr. President, will the Senator yield me 5 minutes?

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, do I have any time remaining of the 15 minutes?

The PRESIDING OFFICER. The Senator has used 13 minutes of his 15 minutes.

Mr. DOMENICI. I yield the remainder of the time back to Senator Hatfield, and I yield the floor.

Mr. JOHNSTON. Mr. President, I yield to Senator Proxmire such time as he may need, to Senator Ford such time as he may need, to Senator Bradley such time as he may need, then to Senator Randolph, should he so desire, such time as he may need. I ask unanimous consent that the last speaker be able to yield back the remainder of my time or yield to such other Senators who wish to speak.

Mr. PROXMIRE. I need only 5 minutes, but I will speak against the conference report, so perhaps I should take time from the minority.

Mr. JOHNSTON. I will be happy to yield time to the distinguished Senator, even though he is against the conference report.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, while I believe the conference committee on S. 932 has made considerable improvements in the bill which passed the Senate last November, I am still compelled to oppose this legislation. My problems are with title I which would create not one, but two synthetic fuel programs.

When the Banking Committee considered the synthetic fuels legislation, we adopted an aggressive program which would have provided Federal assistance for up to 12 first-generation synfuel projects. The Banking Committee felt that synfuels are an important energy option and that limited Federal financial assistance would help speed commercialization of this energy resource. But we did not feel that a crash program, seeking to obtain an attainable goal by the force-feeding of Federal dollars would represent a wise investment. Nor did we feel that synfuels alone represent the answer to our energy needs. So we proposed to create both a Solar Energy Development Bank and a Conservation Bank to assist consumers in their efforts to reduce their consumption of nonrenewable energy resources. I believe S. 932 provides several important programs to stimulate increased conservation and the use of solar energy.

But, this bill's high marks on conservation and solar energy do not balance its low marks on synfuels.

To begin with, why do we need two synthetic fuels programs? Proponents of the Synthetic Fuels Corporation argued that the primary purpose for creating a Corporation was to avoid the redtape which

inhibits Federal agencies and to speed implementation of the synfuels program. But the conference decided that establishing the Corporation would take time, so they adopted a modified version of the House-passed program on an interim basis. This transitional program, under the auspices of the Defense Production Act, is almost identical to the bill approved last summer by the Committee on Banking, Housing, and Urban Affairs. While it is supposed to terminate once the President determines that the Synthetic Fuels Corporation is functioning, the President retains broad standby authority under the DPA to stimulate further production of synfuels.

I thought we were creating the Synthetic Fuels Corporation because it was not possible to provide effective and timely Federal assistance through existing agencies. But the work of the conference committee appears to belie this argument. Not only are we using existing agencies under the DPA program, but also, we are using these agencies precisely because they are a quicker and perhaps more efficient means of expanding synfuel production.

Because it was felt that a Federal agency could not administer a synfuels program properly, proponents of the synthetic fuels corporation argued that an independent corporation is needed. But the bill we have before us no longer creates an independent corporation. Instead, as the last order of business on the last day of the conference, without any previous discussion, seven amendments were approved which transformed the corporation into a "Federal entity" which is, I am informed, the functional equivalent of a Federal agency. I honestly do not understand why a new Federal agency can do the job that existing agencies supposedly cannot do.

I am also concerned about the methods of financial assistance that are provided in this bill, and the potential for wasteful contracting practices. We have all seen how waste can occur in major Federal contracting programs, and I am concerned that the same sorts of inefficiency and waste could be built into this program.

Despite my concerns, I would be less than honest if I did not say that I consider the conference report to be in many respects, a great improvement over the original Senate bill. Given the raw material that it had to start with, I believe that the conference committee has done an admirable job. The bill before the Senate is no longer an irreversible commitment of \$88 billion to synfuels technologies. Mechanisms written in during Senate floor debate, and modified further in the conference, insure that Congress will be given a fair opportunity to rethink this program before making further financial commitments beyond the initial \$20 billion.

Thus, what started as an all-out \$88 billion crash program has become a phased commercial demonstration program. I still believe the production goal is too ambitious and could strain the Nation's productive capacity, but the general emphasis of the bill, which provides for congressional review and approval of the second phase, is much more in keeping with our original Banking Committee proposal.

The Corporation will not operate entirely free of legal restraints. Some State and Federal laws, relating to environmental, land use, and water rights matters, are specifically made applicable to the Corpora-

IN MEMORIAM: A. W. H. ...
FULLY ...

1. NAME
2. ADDRESS

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ACQUISITION - In the acquisition of a new language, the learner must first acquire the basic vocabulary and grammar of the language. This is followed by the acquisition of the specific vocabulary and grammar of the language.

FINDING: [REDACTED]

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THE HON. CHIEF JUSTICE OF THE SUPREME COURT OF CANADA

1. The first of these is the fact that the Commission has not yet received any information from the Government of the United States regarding the results of its investigation of the activities of the American Friends Service Committee in the Philippines.

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

CONFIDENTIAL

The PRESIDENT OFFERS THE SEATING AS FOLLOWS:
Mr. FORD, Mr. President, the Chairman, Report on 1900.

All the various pieces are falling in place as far as a national cur-

policy is concerned. S. 989 provides the necessary support and direction to move a national synthetic fuels program off the

board and into the mainstream.

This legislation stresses both the increased use of domestic energy resources as well as a greater emphasis on conservation measures. The major focus on the bill is to take those technologies that we know can work and give them the necessary push to make them available on a large-scale basis.

The bill includes major incentives for increased production of many domestic-based alternatives to imported oil, including synthetic oil and natural gas from coal.

This legislation recognizes the fact that coal has a vital role to play if this country is to substantially reduce its dependence on foreign energy. Strong support also is given to other promising new energy sources, such as solar, which need to be developed to the fullest.

The legislation includes a \$1.2 billion biomass program to encourage communities to convert waste to energy, a \$1.75 billion energy bank to make loans and grants for solar and conservation work in homes, small apartments, and commercial buildings, and other conservation measures, including home energy audits by electric utilities.

Another program established by the bill requires the Federal Government to offer loan, price, and purchase guarantees to stimulate the production and commercialization of alcohol fuels. Price guarantees for fuel produced under the program would be limited to fixed-price agreements, and loan guarantees for construction would be limited to 90 percent of capital costs.

The bill also provides \$50 million for a Government study of acid rain. The study would examine the causes and effects of acid precipitation and develop recommendations for addressing the problems by acid rain.

Mr. President, I have served and worked with the members of our Energy Committee. I compliment each of them, because each has made a major contribution to this piece of legislation.

We have diverse views on the Energy Committee, and I think the views of the regions and philosophies of this country will be found in this piece of legislation. I compliment those members of the Banking Committee that came and served on the conference committee and those Members of the House of Representatives who worked long and hard to see that a good piece of legislation came before each body of Congress and that it is in the best interest of the security of this country.

I regret that the chairman of our Banking and Housing and Urban Affairs Committee must oppose this piece of legislation. Not only the chairman and the ranking minority member, but the floor manager of the bill complemented the piece of legislation in particular. His major concern seemed to be the placing of the word "entity" as it related to the Synfuels Corporation.

We have done this in the past. We have used this term or a like term when we were going into something new, and I just suggest the TVA that was new. It was an entity. It was a corporation limited.

It was the protection in this bill, I think, that we wanted to give to the communities and to the States and yet travel a path that would expedite the construction of these plants, the research and development in other areas, and the help that is necessary for individuals as they endeavor to conserve and to help back off the use of foreign energy.

Mr. President, I compliment each and every one for their input. I sincerely believe that this country will be in a better position as a result of this legislation and that the bottom line is our very security.

I yield the floor.

Mr. BRADLEY. Mr. President, this is a day when I think the Senate can be proud of its Members and of the Energy Committee because in the last year we have taken a rather narrow bill that was directed primarily at synthetic fuels and transformed it into a bill which addresses the range of energy problems that confront our country today in a thorough and precise manner.

Mr. President, since the first Arab oil embargo we have been grappling as a Nation and as a Congress with the concept of energy dependence. As we become more preoccupied with that concept we have become less vigilant about our vulnerability to an oil supply interruption and about the questions that pertain to economic growth that are essential in the transition from where we are now to an alternative energy future.

Congress has debated this issue and proposed remedies which are long term in nature while in part ignoring the hard choices of that transition and the particular vulnerabilities that dependence on insecure sources present for our Nation.

That is why this bill that comes before the Senate today as the work of the conference of the House of Representatives and the Senate is one that does address all three of those phases in the energy problem.

Mr. President, title I, the synthetic fuel bill, the solar bank, the titles that apply to biomass and urban waste, all are directed at an alternate energy future that awaits this country out around 1990.

In addition to those, though, we have had I think major effort in the area of energy efficiency, in the conservation bank and the residential energy efficiency plan and the various utility conservation plans, all of which accept the premise that the most easily produced energy in this country lies in the homes of our people and in the plants and equipment of our industries.

And this bill goes after that source of energy, that source of energy which will give us breathing room to move from where we are now in a position of great overdependence on insecure sources to an alternate energy future when energy will decrease in price as more and more people use it instead of increasing in price as more and more people use it in our present energy application today.

So, Mr. President, those two are addressed.

I wish to make the argument that one of the more significant aspects of this piece of legislation is the strategic petroleum reserve which is directed precisely at our most vulnerable area in energy policymaking, an area which unfortunately has been neglected in the past by an administration and by Congress. We rectified that in this bill by beginning the fill of the strategic petroleum reserve at a level of at least 100,000 barrels a day.

Mr. President, as we stand and sit in the Senate and drive our automobiles in this country and continue to live in energy inefficient homes, we sometimes focus on the short-term problems that affect us in our pocketbooks and in our views of what the good life might be, unaware that it is quite possible that in the next 48 hours or 6 months or 2 years

we could suffer an oil supply interruption that would create economic chaos and endanger the democratic institutions of our country.

It is, therefore, with a great deal of pride and I think some effort that we were able to address this question of contingency planning through the strategic petroleum reserve. We have not solved any of the three phases of our energy crisis in this bill. But we have begun to address them in a thorough and precise way.

That is why, Mr. President, I am pleased to support this conference report and I feel that the Senate will have something to go home to its constituents and tell them what we have done, something that we can be proud of, something which is an important beginning in three phases of energy policy, two of which have been neglected for at least 6 years, and in the process of this legislation, I think all of us came to know each others regional problems better, came to know each others stresses and each others vulnerabilities, and I think as a result of that we produced a better bill.

Particular distinction should be given I think to Senator Johnston and Senator Domenici, who on the majority and minority side, mastered the most arcane aspects of the financing for the Synthetic Fuels Corporation and even came to understand the workings of the residential energy efficiency plan and throughout asked the difficult questions that pertained to the strategic reserve.

So there are a lot of people to whom credit can be given on this day. But there is much to do again. So in supporting this bill I do so as it is an important beginning in the solution to our energy crisis. It is not a final solution. In subsequent Congresses I hope we will return to address in an even more thorough and precise way our continuing vulnerability to supply interruptions and our continuing misuse and waste of energy within our country for, as I said earlier, what is at stake is not simply this election, but the economic viability of our country and the continued vitality of our democratic institutions.

Mr. DOMENICI. Mr. President, does the Senator from West Virginia desire to speak?

Mr. RANDOLPH. Mr. President, if it is agreeable with my colleague at this time under the control of the Senator the schedule.

The PRESIDING OFFICER. The Senator from West Virginia has been yielded time under the control of the Senator from Louisiana.

The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, this is one of the most important legislative proposals that has been brought into this forum for discussion and decision that we have had before us, not in this year 1980, or 1979, or 1978, or the 10 years preceding that. Mr. President, this legislation, very frankly, will indirectly affect the livelihood of every American person and our collective ability to come to grips with subject matter on which not only the stabilization of our American way of life is involved but also the security of 230 million men, women, and children who live in this country.

I do not want to be nostalgic in any great degree, but this is a subject that, as the able chairman of the Energy and Natural Resources Committee (Senator Jackson) said earlier today, had been around for a long time. That certainly is true.

I wish to commend by name—and I shall place the names in the Record—all the members of the Energy and Natural Resources Com-

mittee, the Senate Banking Committee, and the members of the four House committees who have done the minute-by-minute, hour-by-hour job—a very difficult job—of reaching a final conference agreement on the Energy Security Act of 1980:

SENATE CONFEREES

Jackson, Henry M., Church, Frank, Proxmire, William*, Williams, Harrison A.*, Cranston, Alan*, Stevenson, Adlai E.*, Johnston, J. Bennett, Bumpers, Dale, Ford, Wendell H., Morgan, Robert*, Durkin, John A., Metzenbaum, Howard M., Riegle, Donald W.*, Matsunaga, Spark M., Melcher, John, Sarbanes, Paul S.*, Stewart, Donald W.*, Bradley, Bill, Tsongas, Paul E. Tower, John*, Hatfield, Mark O., Stevens, Ted, Bellmon, Henry, Weicker, Lowell P., Domenici, Pete V., McClure, James A., Garn, Jake*, Heinz, John*, Lugar, Richard G.*, Wallop, Malcolm, Kassebaum, Nancy L.*, Armstrong, William.*

HOUSE CONFEREES

Staggers, Harley O. (W. Va.)**, Ashley, Thomas L. (Ohio)***, Dingell, John D. (Mich.)**, Reuss, Henry S. (Wis.)***, Wright, James C., Jr. (Texas)***, Moorhead, William S. (Pa.)***, Fuqua, Don (Fla.)****, Foley, Thomas S. (Wash.)*****, Neal, Stephen L. (N.C.), Ottinger, Richard L. (N.Y.)**, Blanchard, James J. (Mich.)***, Sharp, Philip R. (Ind.)**, Moffett, A. Toby (Conn.)**, Gore, Albert A., Jr. (Tenn.)**, Vento, Bruce F. (Minn.)***, Broyhill, James T. (N.C.)**, Wyder, John W. (N.Y.)****, Brown, Clarence J., Jr. (Ohio)***, Stanton, J. William (Ohio)***, Wampler, William C. (Va.)*****, Wylie, Chalmers P. (Ohio)***, McKinney, Stewart B. (Conn.)***, Kramer, Ken (Colo.).

I think it appropriate in consideration of this agreement that we go back and talk about the Synthetic Liquid Fuels Act of 1944. The responsibility was mine as chairman of the Subcommittee on Coal in 1942, to hold the hearings which eventually led, along with the work of Senator O'Mahoney, to passage of that act.

I do this to remind not only those in the Chamber but the country as a whole, that we often act in this country at every level of our society, including the legislative branch after the fact rather than before the fact. In the middle forties we were faced with the crisis of World War II, and thus faced with immediate crisis it was believed that something should be done in research and development in synthetic liquid fuels.

In the legislation we developed at that time, we also thought of a broad range of alternative fuels, including forestry and agriculture products. As Senator Jackson, Senator Johnston, Senator Domenici, Senator Bradley, and all who have dealt with the subject matter on a historical basis know, with the full support of the Secretary of the Interior, Harold Ickes. We knew the job had to be done.

What happened? Eighty-five million dollars authorized by the 1944 act is not very much money now, but a considerable amount of money then, was placed into the program for research and development. But the U-boats went home, and no longer threatened the east coast of our country from being cut off from the supply of petroleum we needed. Then, we were not the mobile Nation we are today. We did not need the comparative amounts of fuel that we need now.

Senate Energy Committee (18).

**Senate Banking Committee (14).

***House Interstate & Foreign Commerce Committee (8).

****House Banking Committee (10).

*****House Science and Technology Committee (3).

*****House Agriculture Committee (2).

Senate 32; House 23; total 55.

Everybody said, "The war is over. The U-boats have gone home, we have no problems in this country. We need no backup of synthetic liquid fuels."

So of the \$85 million originally authorized I remind my colleagues and the citizens who will read this Record, \$3 million was returned unused to the Federal Treasury.

I wish I had been in Congress during the years when the decision to abandon this effort was made. Someone might say that I retired from the House of Representatives in 1946. I did not retire. I was defeated. It is pointless to debate whether I was more valuable to the district I represented in 1945 and 1946 than any other period over the 14 years. It is a fact—and we are realists here—that when the people decide to make a change, they decide to make it. Many of us went back home in 1946, not only Democrats but Republicans as well. A conscious choice was made.

So I was not given the privilege and the great responsibility to return here to the Hill until 1958, taking my office a few days after being elected in November because of an unexpired term which had been occupied by Senator M. M. Neeley from West Virginia for many years.

My purpose at this juncture, however, is to thoroughly endorse what is being done now. The conferees did not subscribe to some of the debate of a few months ago when it was said here, "We should not do this job now," Senator Jackson, "because we will not have any of the beneficial effects of synthetic fuels for 7, 8, or 10 years—so let us do nothing about it."

I did not and do not subscribe to that argument, of course, because when you start to do something you must do it today, not wait another year and another year until it is absolutely too late. If we wait, our Nation, even in time of peace, can be easily frustrated, and in time of war can suffer tragic consequences.

This Energy Security Act of 1980 signifies congressional awareness and support for synfuels production as a welcome replacement for oil imports. This action initiates a new beginning as will the Power-plant Fuels Conversion Act of 1980 which will come before the Senate shortly. We are now seriously attempting to stem the tide of petroleum from overseas.

It has been said before, and I only repeat it that \$95 billion will be spent in 1980 for petroleum that comes largely from unstable and unfriendly countries overseas. Domestic funds which end up in foreign treasuries and thus cannot be spent on needed programs at home.

(Mr. Exon assumed the chair.)

Replacement of these oil imports is absolutely imperative. The prices will soon range from \$33 to \$37 a barrel. I say to the Senator from New Mexico (Mr. Domenici) that it might be \$40 in a few days or a few weeks. It might be any amount. We are faced not only with our hostages in the Embassy in Tehran or elsewhere in that country; we are a hostage people from a nation within to the OPEC countries and the other oil-producing countries where they set the price and they set the amount they permit us to buy.

And so this conference report is a long awaited and wonderful response from the membership. I repeat it has been a tough job, the prod-

tact of 8 months of intensive study, work, and negotiation. It is encouraging to me, as one who was working this subject in 1942, to work it again in 1980, even though we talk in terms of \$20 billion, rather than \$85 million of the original effort.

And so this is a commitment long overdue. Passage of this legislation sends a message to OPEC stating that we are encouraging rather than discouraging the construction of synthetic fuel plants—not only through subsidy support where needed to assure early commercialization of these plants, but with unwarranted regulation and inflationary impacts.

Realistically, we will need many different kinds of plants to produce many different kinds of fuels; Low, medium, and high Btu gases, heavy and light boiled fuels, distillate, naphtha, gasoline, and alcohol—as well as a number of petrochemicals and other valuable by-products. Most of the proposed plants would produce several of these fuels. In the largest projects, the feedstocks are most likely to be coal or oil shale; but peat, wood, and trash could be used in some situations.

Certainly, I talk perhaps too often about coal, but we cannot overstate its importance. It is found not only in West Virginia, but it is found in Wyoming, it is found in 26 States across America—coal, ready to be used, ready to be used in many, many ways, cleanly burned, to help take care of the petroleum that is addressed in synfuels legislation.

There is also oil shale, certainly, in the Rocky Mountain regions of this country. I remember when we opened up the first project out at Rifle, Colo., after the 1944 legislation that passed. You see, we had it underway. We were doing then what was to be dropped. I always hoped it would not be as the poet said:

Dropped like a ragged old coat in the street and never put on again.

Well, we are putting on a coat again. I believe it is a coat that we understand must be used, because it is a protection against the evil winds that blow against this country from many parts of the world.

Approval of this conference report also signals our domestic energy industry that we want immediate action on synthetic fuels. The President, acting under the amended Defense Production Act of 1950 can initiate the activities necessary to reach the goal of 500,000 barrels per day of synthetic fuels production by 1987, until the Synthetic Fuels Corporation is operational, hopefully within 9 to 15 months.

And so the White House can help, Congress can help, but most of all the American people must understand that it is imperative—even though we are late, acting after the fact—that domestically produced synthetic fuels are necessary for our collective survival.

Once industry is headed toward a commercial basis with regard to synthetic fuels, I believe they should be able to develop the 1992 goal of 2 million barrels of synthetic fuel a day without Federal help other than price guarantees. If industry does not accomplish this, we should then go to government owned, company operated projects, which could use any patented process, could make rapid adjustments for presently unforeseen environmental problems that would only become apparent with time, and reduce the tendency to overemphasize the cost reserves necessary to build plants by private industry to cover all conceivable risks.

Mr. President, the Senator from Nebraska (Mr. Exon), who now occupies the chair, comes from the Midwest, not Appalachia, where I was born and where I lived. The Senator comes from a part of the country, as does every region of our Nation, that has a tremendous stake and opportunity in what is being done here, because there are many energy forms, alternatives, and opportunities. I say to the able Presiding Officer from Nebraska (Mr. Exon) that this is a nationwide crusade to which all the people of this country must enlist.

The measure we approve today gives us a domestic energy option. In addition the agreement contains provisions for a \$20 billion U.S. Synthetic Fuels Corporation, a \$3.1 billion energy conservation and solar energy bank, a \$1.4 billion biomass-to-energy program jointly run by the Energy and Agriculture Departments, other incentives for the use of renewable energy and studies of the environmental impact of fossil fuel burning. In all, the bill authorizes, but does not appropriate, roughly \$25 billion for fiscal years 1981 through 1985. O

After being on the first airplane flight in the United States using a gasoline produced from coal by the Bureau of Mines in November of 1943, I realized the value of having the capability to produce fuel from our abundant coal resources.

I took this flight with another West Virginian, a young man from South Branch, W. Va., I say to my colleagues. We flew from Morgantown to National Airport here in Washington. We were flying in a little single-engine aircraft, not the wide-bellied ships you see today. We had taken out the regular aviation fuel and we had placed in the tank 40 gallons of synthetic fuel which had been processed by the Bureau of Mines in its facilities near Pittsburgh, Pa.

I remember Senator Mahoney, of Wyoming, who was here, who co-sponsored the legislation, met us at the airport. I have photographs showing the House and Senate Members who were there on that occasion.

During the same year in writing for the West Virginia Review, I stated:

In the future we will not be able to depend on the importation of oil from any foreign country, even though it may appear to be a friendly one now, for then a major portion of our economy could be subjected to the whims and controls of outside powers. Unless we have our own sources for gasoline and oil in time of peace, we might be forced to pay exorbitant prices; and, if supplies were cut off in time of war, our entire military machine would be helpless.

I said earlier I did not want to overemphasize these words that I spoke in 1943. I am only saying them again because they are valid expressions of the realism of the challenge we meet with this legislation.

Yes, I shall not forget April 5, 1944. I shall not forget the signature of the President as he signed the bill nor the 78th which passed it. Tragically, when the synthetic fuel program was terminated, our national knowledge and skill on processes for the conversion of coal to synthetic products also was lost.

I again state that \$82 million was committed and then the program was terminated; \$3 million was returned to the Treasury from the original \$85 million.

The conversion program, the synthetic program, went down the drain. It literally went down the drain because people were not under-

standing of the subject matter potential calamity that could be just around the corner for America. We knew then and are now forced to admit that the domestic scarcity of liquid fuels we faced during World War II has come again. What we found then in a slight degree, although it was an important degree, is now here to haunt us again. Not just coming again, but to haunt us again.

On my return to the Senate in 1958, I began to work for a national fuels and energy policy, including synfuels. For example, I testified before the Senate Interior Committee in 1961 and said:

Every year that passes in which we become more and more dependent on foreign oil to buttress our national economy and security perhaps is one year nearer to disaster. We are gambling on our country's future.

Now we are in 1980.

Now, a majority of my colleagues, both Republican and Democrat, in the 96th Congress realize we are again at a turning point where coal synthetics must substitute for foreign petroleum. This Senate, faced with a scarcity of oil, is moving with dispatch to provide a clear and decisive Federal policy to foster the private development of alternative domestic fuels.

So we take a new look, a fresh look. Lincoln often talked about how we must think anew and must act anew. That is what he said a long time ago when he was faced with a crisis. Think anew and act anew. "The dogmas of the quiet past are not adequate to the stormy present." Then he added, "If we work together, we can win." That is what we must do in this Senate, not because of a Democratic majority or a Republican majority, but a majority of the Members of this Senate, I hope with very few dissenting votes to pass this legislation as quickly as possible.

By doing so we shall be responsive, although late, to the needs.

The synthetic fuels industry which we will build will produce positive results from the investment in our own country's energy future. If our national energy policies are to be responsive to national needs, we must use energy resources of every form—not competition between energy resources.

During the last few years we have witnessed energy decisions based on the short-term perspective, at great expense to public confidence. Because of our pre-occupation with minimizing the short-term effects of inadequate domestic energy supplies we have failed to act to solve the longer-term supply problems. We now must correct this situation, Mr. President. We absolutely must do it.

So, once again, one of the most important national commitments that we shall ever make—not as Democrats or Republicans, but as the Congress of the United States, responsive to the American people—is a commitment to synthetic fuels to stop, insofar as possible, at the earliest date, the purchase of foreign petroleum, now 1,600 percent more expensive per barrel than in 1970.

I once more congratulate and am grateful to my colleagues. While not a member of the Energy and Natural Resources Committee, I have been privileged and have appreciated the opportunity to work not only with the members of that committee but also with the leadership of the Senate, particularly the majority leader (Mr. Robert C. Byrd).

I say only that time, Mr. President, is of the essence. I hope that the Senate today and the House soon after will act to place a bill on the President's desk. I would like to think that the American people—and I wish they could all be there to see the signing on July 4, 1980—completely realize of what import this bill signifies with regard to our own “domestic energy independence.” I sincerely believe that the American people, the White House, and the Congress all understand that now, not later, is the time to become energy self-sufficient as a nation.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Johnston, I yield myself some time that I may reply.

Mr. President, I congratulate the conferees on both sides of the aisle for the work that they have done so well. This basic measure has been in conference for many months. The conferees met scores of times, last year and this year. And I am sure that, in many instances, they were discouraged. But they continued to be dedicated to reaching the final goal.

The conference report is now before the Senate and it represents a major victory for this country in its efforts to become self-sufficient in respect to energy. Mr. President, the energy problem is probably the most serious problem confronting this country. The problem underlies our problem of inflation. It impinges upon our national security. With each barrel of oil imported into this country, we import inflation, we import unemployment, and we further put out of balance our trade accounts.

Ten years ago, this country imported oil in the amount of \$3.7 billion. That was 1970. This year, this country is importing about \$95 billion worth of oil—\$94 or \$95 billion. Ten years ago, the price of oil was under \$3 a barrel. Today, the price of oil is over \$30 a barrel. The price of imported oil has increased over 1,000 percent in 10 years.

Any morning, the American people could awaken to see in the headlines of their local newspapers a startling and unsettling story to the effect that oil exports from the Persian Gulf have been interrupted. Those interruptions could occur because of an embargo—and we have seen that occur, in 1973. They could occur by the overthrow of a regime, and we have seen that occur in the case of Iran. They could occur by accident, by invasion, by terrorist acts.

Any interruption of that oil supply from the Persian Gulf, any significant interruption, would be a very damaging blow to the economy of this country. This country imports 25 percent of its oil from the Persian Gulf.

As badly as this country would be affected, the countries of Western Europe, our allies, would be affected even more. They import 50 percent of their oil from the Persian Gulf. Japan would be affected even more than our European allies. Japan imports 90 percent of its oil needs from the Persian Gulf.

So the balance between peace and war is a very delicate one. A major interruption of that oil supply would bring war. Ships cannot sail without oil. Planes cannot fly without oil. Tanks cannot move

without oil. Armies must have oil. So one need not look at tea leaves to recognize the jeopardy in which our country would be placed—and our allies in Europe and Japan, as well—if there were to occur a major interruption of the oil supplies from the Persian Gulf.

An interruption amounting to 3 million barrels per day would damage our economy to the tune of \$100 billion annually. A total cut-off would damage our economy, according to one report I have read, to the tune of \$700 billion annually. That would be absolutely devastating.

Now, a partial cutoff of that supply would impact on every American and on American jobs, and factories, and farms. Factories, farms, jobs, automobiles, trains, planes, ships, are slowed down or stopped when the supply of oil slows down or is stopped.

There is no weapons system, no weapons system that I can imagine, that would be as important to this country's national defense and to the defense of the free world as energy independence would amount to.

Control over our energy destiny is worth far more to the national security than any weapons systems, any new weapons systems, we can conceive of. The energy dilemma impacts upon peace and the prospects for peace. For too long, this country has failed to recognize the danger to its economy and to its military security which results from our dependence for oil on sources that may be unreliable, under certain circumstances.

Many of our people do not believe there is an energy problem. All they need, in order to understand fully that there is an energy problem, is to take a look at the dollar amounts this country is spending for imported oil—\$94 billion a year!

There are no gas lines right now, so many people think the problem has gone away.

It is a good bit like a cancer. The victim walks around, his color is good, his pulse is good, he has not begun to lose any weight, he feels good, and just underneath the surface that person is being devastated. It will only be a matter of 2 or 3 months, perhaps, or a year, until the victim will have gone beyond the stage of treatment and it will become a terminal case.

It is much the same with our energy problem. There are no gas lines. It does not appear there is a problem, and many people do not think there is a problem. Yet, it could quickly become critical for all Americans.

Many people think the problem, if there is one, has been contrived—contrived—by the oil companies, contrived by the Government.

I have no brief for the oil companies. But for many years, the Government did not want to spend money on synthetic fuels research because synthetic fuels could not be produced at a price that was competitive with the oil and the refined petroleum products this country was importing from abroad.

I used to go down to the gasoline station. My wife would say, "Well, this time get cloves."

Cloves. Get the gas tank filled, and I would get a nice little canister of cloves from the station attendant.

The next time, she would say, "This time get cinnamon." The next time, "red pepper." The next time, "black pepper." And so on until we had collected all the different kinds of canisters of spices.

Then the next time she would say, "By the way, they have a nice little rack down there. When you get the tank filled, this time get the rack so that I can put it on my kitchen wall and we can put those nice little spice containers on there."

Gasoline was 23 cents a gallon, 24 cents, 25 cents, 26 cents, 27 cents, 28 cents, 29 cents.

We could get the gas tank filled at a price that was dirt cheap and in addition get a nice little glass, a very nice looking glass tumbler, a lot of spices, and a rack to put the spices on—all for free.

So the oil companies were able to deliver that gasoline to the American gasoline tank at a price cheaper than in other industrial countries of the world.

By the way, that was my first job after I graduated from high school. It took me almost a year to get a job. It was not working in a service station. They did not have service stations in those days. Those were gas stations.

Well, the oil companies were able to deliver that gasoline from sources thousands of miles away at prices that were dirt cheap.

I came to the Congress in 1953. In the House of Representatives, I urged repeatedly that this country get away from imported oil, and use coal instead—c-o-a-l.

I pleaded that we spend more money on coal research. Then we fought to establish an Office of Coal Research, and George Fumich, a West Virginian, became the first Director of the Office of Coal Research.

For years in the Senate Appropriations Committee I attempted to increase the appropriations for coal research. I could not get the administrations' ear, whether it was Democratic or Republican.

Why not? Because it was not thought that the taxpayers' money should be spent to produce oil from coal that would cost a price of \$35 or \$40 a barrel when we could buy it abroad for \$1.80 a barrel?

So it did not make sense to spend that kind of money for coal research. We could buy oil dirt cheap, transported thousands of miles, at \$1.80 a barrel, 27 cents a gasoline, and get a nice piece of glassware, and all those fancy spices. No matter whether we ever used them or not, they looked nice on the kitchen wall.

So there came a time when the embargo occurred. Then the price quintupled overnight. Gasoline lines came. We read about the people who would get into fights with each other, with guns and knives, and endanger life and limb because they wanted to get up to that gasoline tank and they did not want anyone running up ahead of the line.

Today gasoline is about to be produced competitively through the synfuels process at a price that may be cheaper one day soon than the cost of imported oil.

So we have, at last, produced legislation which will put us in line in the synthetic fuels process.

This measure we are debating and soon will act upon will provide for the production of 500,000 barrels of oil by 1987. The production goal is to increase that to 2 million barrels a day by 1992.

So, Mr. President, we are ready to go. But how many years will it take the United States to produce this equivalent of imported oil? Most of it will be produced from coal.

In 1987, 7 years from now, we hope to be producing 500,000 barrels a day. In 1992, 12 years away, we hope to be producing 2 million barrels a day.

This is something we should have been doing 20 years ago, but we did not do it. Now we are about ready to do it. We are about ready to get the package passed, get the process moving.

The Germans, of course, fueled their war machine in World War II from coal, but it was a matter of necessity. They were able to do it. We can do it, also. We are trying to refine the process. But we have had to be driven to act finally in our own interests, for lack of foresight and vision in the past.

Now the oil-producing countries have us over a barrel—if I may use a pun. They continue to raise the price.

The American people pay 4 cents a gallon Federal tax. The West Germans pay \$1.14. The French pay \$1.62. The Italians pay \$1.83. We pay 4 cents a gallon tax.

Those of us who supported the President in respect to the import fee do not like to vote increased taxes on our people. My wife pays the same for gasoline as any other citizen pays. My daughters and their husbands pay the same for gasoline as other citizens pay.

I do not like to support the President in a matter that means an increased tax of 10 cents, but that tax was to be used as a cushion—in the event it was needed as a result of slippage in the economy—to balance the budget. If the budget could be balanced without it, it was hoped that it would be used as a productivity tax and/or as a reduction in social security withholding taxes.

Next January, the social security withholding tax is scheduled to go up 1 percent. It was the thought of those of us who supported the President's import fee that that money would be used as a productivity tax or as a reduction in the withholding taxes for social security.

This country turns its industrial plant over about once every 30 years. The Japanese modernize their industrial plant once every 10 years. Because of that, their plants are more cost efficient than are ours.

So it was hoped that that money would be used as a productivity tax to modernize our industrial plant. Well, it went down the drain. From 4 cents, it would have gone to 14 cents. The Congress killed it.

The following week, the OPEC countries, the oil-producing countries, got together and jacked up the price of oil—it amounts to a tax on Americans—1 or 2 cents a gallon. The oil-producing countries are taxing the American people today to the tune of \$400 for every man, woman, boy, and girl in this country. We pay \$94 billion for oil and refined products, and we have 220 million people. That is \$400 for every man, woman, boy, and girl in this country.

The Constitution gives Congress the power to raise taxes, but Congress is not levying this tax. The OPEC countries levy what amounts to a tax on gasoline and oil. They say they will increase it \$1, \$2, or \$3 on the barrel. That is an increased tax on the American people—every man, woman, boy, and girl, poor and rich, white and black, in this country.

That "tax" goes not into the U.S. Treasury but into the treasuries of the oil-producing countries. We are at their mercy. Two hundred twenty million Americans are held hostage, as are our Western Eu-

ropean allies and Japan. There is not a vote in this Congress, in accordance with the Constitution, to raise that tax. The OPEC countries just get together—and say, “We are going to raise the price of oil.” As that price goes up, every American pays more money for gasoline and it amounts to a tax. It does not go into the U.S. Treasury.

When the American people really understand that we have a serious energy problem, perhaps they will be willing to conserve more than they are conserving now. If the price is going to go up, let it go into the U.S. Treasury, not for more Government programs that will not work. Let it go into the U.S. Treasury, to be rebated to the American people, so that those who conserve will benefit and those who will not conserve will pay.

It is going to take that kind of sacrifice, it is going to take a greater sacrifice on the part of the American people and our allies before the energy problem can be brought under control. The synfuels legislation will not do it alone, but it is part of the answer.

I congratulate the conferees and the committee members on both sides of the aisle. The Senate is in their debt; the country is in their debt. This has been a long time awaiting. Once this measure is passed, the conference report on the Energy Mobilization Board will soon be before the Senate, and then the coal conversion bill will be before the Senate by next week. All these are building blocks in the temple of energy, self-sufficiency for the United States.

The way has been long, and the strife has been difficult. I congratulate the conferees on the victory that will be theirs this afternoon—a victory for the United States, a victory for energy independence, and a victory for peace.

Mr. DOMENICI. Mr. President, how much time remains of the 2 hours on our side?

The PRESIDING OFFICER. The Senator from New Mexico has 94 minutes, and the Senator from Louisiana has 22 minutes.

Mr. DOMENICI. I yield myself 5 minutes, and then I will yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, will the Senator permit me to make a unanimous-consent request?

Mr. DOMENICI. If the Senator wishes to speak now, I will be delighted to wait.

Mr. MATSUNAGA. I will take 1 minute from the majority.

Mr. DOMENICI. The Senator may have the time from our side.

Mr. MATSUNAGA. I thank the Senator.

Mr. President, I rise in strong support of the conference report on S. 932, the Energy Security Act, a product of 58 Senators and Representatives comprising the largest conference committee in the history of the U. S. Congress.

Each and every title is important, and much has already been said about synfuels from indigenous resources, biomass, energy targets, solar energy, conservation, geothermal energy and the possible environmental effects of the different types of energy. I would like to address myself in particular, to two titles, and special importance to the Nation and my home State of Hawaii: title IV, the Renewable Energy Resources Act of 1980, and title VIII, the mandate to fill the strategic petroleum reserve.

Mr. President, with reference to title VIII, the Senate Energy and Natural Resources Committee this year has received testimony in closed and open sessions from every knowledgeable source involved with the geopolitics of oil. Every witness has warned us about the dangers of our petroleum dependency, and the frightening prospects of any dislocations. The fact of the matter is, Mr. President, the probability of a major conflagration in the Persian Gulf area in this decade is so high that refusal to build up a strategic petroleum reserve would constitute an inexcusable shortsightedness. There is less than 100 million barrels of oil presently in our national reserve. The mandate to fill the strategic petroleum reserve at a rate of at least 100,000 barrels per day would be a gratifying start to paving the way for the regional SPR program.

Title IV, on renewable energy resources, in many ways, could be the most important and far-reaching of all these titles, for this title is the only one which brings together individual technologies and conservation programs on a total systems basis. Nowhere else is there a stress on coordination and comprehensive planning to integrate the various technologies and programs.

Title IV gives my home State of Hawaii the mandate to lead the Nation in pioneering renewable energy self-sufficiency. If acid rain and the carbon dioxide problems become unsurmountable, and if solutions cannot be found to handle nuclear wastes, the Nation and World will then only be able to turn to the renewable resources.

Mr. President, by way of providing some background on the matter of renewable energy independence, let me say that:

During the month of November in 1978, I chaired a series of hearings for the Senate Subcommittee on Energy Research and Development to address alternative energy technologies and their effects on small island economies.

On July 1, 1979, President Carter pronounced that:

He would like to see the State of Hawaii become completely energy independent by the year 1990.

On a number of occasions this year I have communicated with key officials of the Department of Energy, including the Honorable John Sawhill, the Honorable William Lewis, and the Honorable Thomas Stelson, on Hawaii and energy self-sufficiency. I am happy to be able to report that Hawaii energy independence is high on their priority list.

Title IV will enable the Department of Energy to embark on an endeavor which has the potential of capturing the imagination of the Nation on a grand scale with the impact of Project Apollo. The pinpointing of Hawaii as the primary site for initiation of a national program on renewable energy self-sufficiency is, of course, only one of the steps to be taken in parallel with other initiatives provided in S. 932 for nationwide energy independence.

Mr. President, in closing, may I say that the Department of Energy will be sponsoring its first conference ever to be held on renewable energy technologies in Hawaii in December of this year. I would like to invite my colleagues to join me in experiencing the genesis of a coming new age—one powered by natural energy—for this confer-

ence will symbolize the commitment of a State and Nation to an energy future fueled by renewable alternatives.

Mr. DOMENICI. Mr. President, I will yield 5 minutes to the Senator from Kansas after yielding myself 2 minutes to address a few remarks for the record and to our distinguished majority leader.

Mr. President, I commend our distinguished majority leader for the remarks he made during the last 10 or 15 minutes in the Chamber. I do not commend him because of what he advocates as goals, although I share those goals precisely. But I commend him because I was here and I observed that the distinguished majority leader was not reading from some prepared remarks. He literally stood here for 15 minutes and gave about as good a description of the dilemma that the United States is in because of its overdependence on crude oil and natural gas as I have heard.

There was his analysis of the marketplace problems. How could synthetic fuel compete with dirt-cheap oil and natural gas? And I commend him for those remarks.

I make just two observations to further emphasize the concern he expressed. He described the cancer victim that has not yet felt the full impact of the disease that is within. I would say that he should have also said and most experts predict that there is a significant probability, not possibility, significant probability of a major supply interruption in the next 10 years.

If that would have followed the description of the cancer victim it would have told this Senate we better not wait around until we die. The best evidence is predicting the economic and security problems that were alluded to.

Second, as he described what would happen to the United States if we were 3 million barrels a day short by cutoff, war, invasion, or terrorism, he was absolutely right. I think our people still do not quite understand why we cannot do with 3 million barrels less, why we cannot just wave a wand and cure that.

When the oil embargo hit, I say to my good friend, in 1973, these United States consumed 33 percent of all of the energy consumed in the world, No. 1. Our gross national product was 30 percent of all of the productivity of the world.

And 40 percent of all of the energy consumed came from oil at that point in time and it was a totally market-oriented system. We bought as much as we needed, and there were millions of people who were on that particular supply line buying what they needed, filling the tanks of industry. There were then 115 million individual motor vehicles, trucks and cars of various sizes and dimensions, all pulling up to get that very tight market supply, 40 percent crude oil and its derivative gasoline.

We have to make our people understand that if we pull out of that market 2 or 3 million barrels of oil and try to spread that shortage around, we are trying to spread it around in the most complicated, the most difficult market in the world. That is why it is important that we take steps of 500,000 barrels in this bill, conserve a half million here, and the like, because an America to be 40 percent dependent on crude oil, almost half of which comes from overseas, is an America that is

asking for disaster, economic disaster, foreign policy disaster, disaster with our military preparedness and all the other aspects that were discussed by the leader.

I yield 5 minutes to my good friend from Kansas.

The PRESIDING OFFICER (Mr. Baucus). The Senator from Kansas.

Mr. DOLE. Mr. President, first I commend the conferees for their final efforts.

Mr. President, over 7 months have passed since the Senate acted on this very important piece of energy legislation. During the debate on S. 932 I tried to make the point that in all of the flurry with which we debated the synfuels bill, we were leaving out one very vital link in our energy/national security chain. For that reason, I was joined by the distinguished Senator from New Jersey, Mr. Bradley, in offering an amendment that would require the President to resume filling our strategic petroleum reserve at the average daily rate of 100,000 barrels.

I will not retrace the various steps taken by myself and Senator Bradley as we attempted to restore the SPR program to its proper place on our list of national priorities. There have been many votes taken on this issue, and the Senate has engaged in very heated and expanded debate on our entire strategic reserve policy. I would, however, like to say that perhaps the most important vote which occurred on this issue was taken November 8, 1979. It was on that day that the Senate adopted the Dole-Bradley amendment and put this administration on notice that we were fed up with their poor excuses and delaying tactics concerning the filling of our petroleum reserve.

Mr. President, the SPR issue is not a partisan one. It cuts across both ideological and party lines. This widespread and diverse support for the SPR build-up was evidenced by the various votes taken on the first budget resolution dealing with restoring funds for the program. Liberal, moderate, and conservative Senators joined in the various efforts taken by myself and Senator Bradley to restore the much needed funding slashed from the budget in the name of holding the line on Federal spending. As I stated during the debate on the several amendments to restore funding, no one more than the Senator from Kansas wants to see Federal spending held down, but the strategic petroleum reserve is a matter of national security. We must not be penny wise and pound foolish.

Frank Zarb, a former administrator of the Federal Energy Administration during the Ford Presidency, recently stated that "the A-1 priority of the U.S. must be to build up our strategic oil reserve." Mr. Zarb, as FEA Administrator, submitted a plan establishing such a reserve to the Congress, in 1976. During this time OPEC applied continued pressure on the Ford administration to not build our strategic petroleum reserve. Despite this pressure, the Ford administration proceeded to submit a formal SPR plan, and began implementing the plan by contracting with the Army Corps of Engineers to construct oil reserve storage facilities in Texas and Louisiana.

Indeed, under President Ford, the Congress passed the "Energy Policy and Conservation Act" of 1975, Public Law 94-163, which mandated that an SPR be built, and that it contain 150 million barrels (later amended to 250 million barrels) within 3 years after its enactment.

Mr. President, if President Ford's plan to build our SPR had continued to be carried out under the Carter administration, our reserve would today have contained at least 300 million barrels, well on the way to the 1 billion goal. But, President Carter has apparently acquiesced to OPEC's pressure. Faced with a weak administration on retreat everywhere, OPEC's sheiks pressed their advantage. They have succeeded in getting the United States to violate the very provisions of the Energy Policy and Conservation Act of 1975, Public Law 94-163, by ceasing to build up this reserve as of November 1978.

DANGEROUS DEPENDENCE ON FOREIGN OIL

Mr. President, however much we talk of building a synthetic fuels program, however much we may talk about the need for "energy conservation," we cannot escape the fact that throughout the 1980's, we will be dangerously dependent on foreign oil. So long as we are so dependent, it is imperative that we build up a viable strategic petroleum reserve. Common prudence requires that we build up this reserve in order to have a cushion in the event of an oil embargo, or a temporary interruption to our supply of foreign oil. We need only remember the consequences of the Iranian shutdown to see the need for such a backup. Indeed, we need and must possess an oil reserve if we are to remain independent from foreign domination and continue strong in our geopolitical position.

If our OPEC oil supplies are shut off for any reason, such as a deliberate embargo or an unforeseeable circumstance, such as internal "revolution" or an act of terrorism aimed at the supply routes, our economy will be devastated beyond belief. We need a viable SPR to act as a cushion in such circumstances.

In such an eventuality, our only alternative without this cushion will be to intervene militarily in the Middle East in order to seize the oil fields, or else sit back and suffer massive economic chaos, and unprecedented unemployment which no president whether he be Democrat or Republican could hope to pull us out of.

CARTER ANTI-SPRO POLICY

In April of 1977 President Carter declared before a national audience his famous "moral equivalent of war speech." He stated in that address that "we must reduce our vulnerability to potentially devastating embargoes" and proposed a doubling of the strategic petroleum reserve build-up schedule. It was unfortunate that this promise made to the American people was never made good. Our commitment to a strong viable reserve was forgotten by the President and his energy secretaries. Had Senator Bradley and I not insisted on even the bare minimal provisions called for by the Dole-Bradley amendment, I fear our Nation's policy toward SPRO would be one of continued neglect.

Mr. President, it seems to me, and I suggest that there are a number of important measures in this legislation, we talk about the national security of America. I know of no other provision any more important than the SPR provision.

The actions, or better yet, inactions of this administration on the issue have left our Nation vulnerable and placed our national

security in jeopardy. Our strategic petroleum reserve lies at very low levels. We today possess less of a reserve than West Germany, and France; 92 million barrels is all our reserves hold. That amounts to approximately an 11-day reserve should we be found with a severe energy supply interruption.

I might say whatever the cost and whatever the circumstances might be, an 11-day reserve is not a very secure reserve.

It is common knowledge that the Department of Energy bought oil for this reserve for about a year, and then abruptly ceased purchases in November, 1978. I want to stress once again that our reserve now has only 92 million barrels—a far-cry from the President's promise of 1 billion barrels by the 1980's. What circumstances have changed to alter U.S. policy? I am one Senator who feels that no circumstance could ever exist which would be compelling enough to place us at a strategic disadvantage.

Mr. President, in light of the clear and present danger to our national security posed by our dependence on OPEC oil, the Senator from Kansas finds it highly disturbing that President Carter has stopped building our reserve, and that in his July 15, 1979, television address he pledged to impose oil import quotas of 8.5 million barrels per day, which may further constrain our ability to build up our strategic petroleum reserve. It does not make sense to limit our intake of foreign oil and thereby create a shortage, when by the imposition of that very same policy you fail to adequately protect our citizens from such a severe shortage by ignoring the need for a strong well-stocked oil reserve.

This is unconscionable, and the blame for our incredible energy vulnerability must lie with the Carter administration. It has been virtually impossible to get this administration into any decisionmaking sequence with respect to SPRO. Their attitude towards our reserve program has been characterized by flip-flops and inconsistency. The administration has stated their reasons for not filling SPRO as have the opponents of the SPRO program in the Congress. However, it is my belief that there is no excuse at all for placing our Nation in such a precarious position. Of all the dangers we face in terms of our national security interests, perhaps the most grave is oil vulnerability.

NO NATIONAL ENERGY POLICY

Mr. President, regardless of what President Carter may state, our Nation still has no coherent national energy policy. Today we are found with a massive synfuels conference report and soon we will have the fast-track energy mobilization board before us for consideration.

The President's proposed synfuels program estimated to cost over \$88 billion when in full swing will turn out at most 2 to 4 million barrels per day of synthetic fuel, by the 1990's. Yet, it is important to note that today we import over 8 million barrels of oil per day, half of our daily requirement of oil. Therefore, even by relating the maximum results of the synfuel program, we cannot escape our dependence on foreign oil in the foreseeable future. Once again, we can see that without a strategic petroleum reserve, even with our possibly reduced future dependence on foreign oil we will still be placed in a dangerous position.

A 10 percent shortfall occurring during full scale synfuel production would place the United States in an unhealthy position without an SPR. Synfuels are not our only alternative. But new and untried technologies are necessary to develop these fuels, and until these are developed, we will be dependent on foreign oil. Until we are able to substantially reduce this dependence, we must have, as part of a national energy plan, the serious commitment by our Government to build and maintain our SPR.

Mr. President, a synfuel program is needed but at best is a long-term prospect and may quite possibly do little to address our short-term problems as to how do we get over the energy needs of the next 10 years. To deal with these problems, we need a national "energy security policy" to protect the United States against attempts by OPEC to use the oil weapon in dictating our national policy. The key element of such a plan must be to build up our reserves to the point where we can withstand an interruption in the supply of oil, and where we can let our potential adversaries know that we have such a reserve.

Otherwise, the OPEC states may threaten to suspend oil sales to us at any time in order to coerce us to altar our Middle East policies or any other policy with which they are not happy. The linkage between the "oil" weapon and our foreign policy is being made stronger each day that we fail to build up our reserves.

DOLE-BRADLEY AMENDMENT AND THE BATTLE TO BUILD SPRO

Mr. President, the Senator from Kansas has fought long and hard to insure that our Nation once again reaffirm its commitment to the strategic petroleum reserve. During the many battles fought on this issue there was one great victory on November 8, 1979, when the Senate adopted the Dole-Bradley amendment and many defeats during the skirmishes to secure the much needed funding. The Senator from Kansas must state that he is very pleased with the outcome of the synfuels conference and how it relates to the strategic reserve issue. It is my understanding that the conferees agreed to require the President to resume filling SPRO; at the minimum average daily rate of 100,000 barrels.

This provision is very similar to the original Dole-Bradley amendment with some modifications. It is my belief that the modifications to the original amendment made during the conference committee have added to the strength of the amendment. The most important modification to the Dole-Bradley amendment was the requirement that if the specified fill rate is not achieved then any production from the Naval Petroleum Reserve No. 1 (Elk Hills, Calif.) must be sold or exchanged so as to be stored in the SPR. I have been very concerned for some time about our policy of depleting Naval reserves and introduced S. 2598, a bill which deals with this problem.

The danger of the Carter administration's policy against filling the SPR is compounded by the fact that the administration is currently depleting our naval petroleum reserve at Elk Hills, Calif., at the rate of 130,000 barrels per day. They are selling this oil to private oil companies in California. California obtains approximately 18 percent of its oil needs from the petroleum reserve.

This policy of net depletion of our oil reserves amounts to "national security suicide." Presumably, our "friends" and "allies," the OPEC Arabs, are gleeful that we are engaging in a systematic net depletion of our oil reserves. This depletion only makes us more vulnerable to their pressure and leaves our military reserves frightfully low.

The provision adopted in conference dealing with Elk Hills produced oil is sound policy and I wholeheartedly agree with its thrust. The other modifications of the Dole-Bradley amendment are agreeable to me, and I am quite confident they will also add to the revitalization of our national policy on SPRO.

Mr. President, there has been great controversy surrounding the strategic petroleum reserve for some time now. I can only hope that this congressionally mandated policy is carried out by the administration to the exact letter of the law. There can always be arguments made and conjured-up to downplay the importance of our reserve program. However, I believe that the filling of SPRO is essential. It is a matter of national security and must not be ignored any longer.

SPRO IS GOOD INSURANCE

Mr. President, most everyone in this country owns an insurance policy, to protect himself against unforeseen circumstances over which he has no control. But, we as a nation do not have a national energy insurance policy to cover the lifeblood of our economy, because we do not have a viable strategic oil reserve. Aside from the long-term solutions to our crisis such as synfuels, what type of administration do we have which does not even possess the prudence to provide our country with the very type of insurance every man and woman knows is needed? The SPR is America's insurance policy against an unforeseen, unexpected energy supply interruption. The amendment proposed by the Senator from Kansas November 8, 1979, adopted by the Senate, and contained in this conference report will insure that this vital aspect of our overall energy policy will be reinstated and maintained.

Mr. President, U.S. Energy and national security policy cannot be dictated by foreign governments. We must not allow our future to be held ransom by the OPEC oil ministers. The Saudis have threatened to cut back production and raise prices if we resume filling SPRO. Sheikh Yamani is reported to have guaranteed the United States that "we will be your oil reserve." Perhaps the administration believes that the Saudis can live up to that promise, but I do not. I am not questioning the Saudis' sincerity, only their ability to fulfill that large promise. The Persian Gulf is the most volatile region in the world, at the present time, and the Saudis are not immune from terrorist actions, revolutionary uprisings, or outside aggression; all or any of which may have profound consequences to the United States.

SPRO IS GOOD INSURANCE

Mr. President, there is one final point I would like to make with respect to Saudi opposition to our resumed filling of SPRO and the proposed F-15 sales to Saudi Arabia.

There are some who now say that we must be prepared to guarantee Saudi Arabia the sale of certain ancillary military equipment that will expand the capabilities of the F-15 fighter aircraft the Carter administration gave to them in 1978. It is not enough that the United States agreed to sell the Saudis one of the most advanced fighters in the world today, even though they refuse to enter the Middle East peace process or otherwise assure Israel that these deadly weapons will not some day be turned on our most faithful ally in this region.

Well, it just seems to the Senator from Kansas that this is a spurious issue. It has nothing to do with filling the strategic petroleum reserve. There is no quid pro quo to be won by trading aircraft for oil. The United States is vitally concerned that Saudi Arabia continue to be able to resist outside aggression. We have an interest there. But we also have an interest, and commitment to peace in the Middle East and to a safe and secure Israel. The Saudis have been no help, and any implied threats to cut off oil supplies or to continue the unwarranted increase in oil prices strike at the foundations of American and world security and stability. This is what makes SPRO so necessary in the first place.

The United States has guaranteed oil to Israel in the event of an embargo. It is in Israel's interest for us to acquire a meaningful SPRO. But Israel's first problem is not oil but blood. If peace cannot be assured or Israel's national security provided, then Israel stands to run out of blood before it runs out of oil.

To discuss the sale of bomb racks to Saudi Arabia is detrimental to the delicate negotiations concerning the peace process and the autonomy issue between Egypt and Israel. The Saudis have been told—have been guaranteed—the delivery of these weapons. They will not even begin to be delivered until 1981, and the full complement will not have been received until 1984. There is plenty of time and opportunity in the future to upgrade the fighters from their present defensive to a future offensive character.

The Senator from Kansas is not ready to say that such an increase in capability may not be in the U.S. strategic interest. It may ultimately be in the interests of Israel, and all countries of the region who desire stability and peace through strength. It is not necessary to make that decision now. It is not necessary to buy our rights to fill SPRO in this way and at this time. SPRO is in our interest and, ultimately, it will be in the Saudis' interest, too. Furthermore, consideration of the F-15 issue now is counterproductive to the present negotiations and the peace process. The Senator from Kansas believes it would be best to shelve this issue until a more reasonable and appropriate time down the line.

TIME FOR TREND REVERSAL IS NOW

Mr. President, it is time for the Congress to reverse the dangerous trend set by this administration and immediately mandate the filling of SPRO. Even with the massive synfuels program contained in this conference report, or with increased domestic energy production our Nation will continue to be dependent on imported crude for at least the

next decade, barring any unforeseen technological advances in the energy area.

Mr. President, in closing I just want to compliment the conferees on this massive piece of legislation, for their diligence in assuring the Dole-Bradley amendment was included in the final product. And, I would also like to express my gratitude to Senator Bradley who worked very hard with me to insure the realization of our goal—the renewed national commitment to SPRO.

Finally, the Senator from Kansas would say that it may be said by some that we are on the way to a comprehensive energy policy. The Senator from Kansas has serious doubts, as he looks at some of the legislation. One of the centerpieces or the centerpiece of the administration's energy policy is the so-called windfall profit tax. It did not produce any energy, and it imposed a tax of \$270 billion on royalty owners and landowners over a 10-year period, and that is a conservative estimate.

It may—and the evidence is rather strong that it may—actually reduce production in this country. There is some hope we may now salvage some relief for the small royalty owners because some of them are beginning to understand that we imposed the heaviest tax of all on the small royalty owners and the small landowners who are paying taxes at a 60-percent rate in the so-called windfall profit tax.

I just suggest we can say what we want to about energy policy, that the windfall profit tax was not an energy policy. It was a revenue policy, it was a tax measure. We did not produce any energy, and it probably will not produce any energy so far as the tax provisions are concerned. It may, in effect, as I say, be a disincentive for production in America.

So I hope that notwithstanding many good features in this legislation, and some good features in the so-called windfall profit tax legislation, there will not be a feeling that we have now achieved some energy policy in America and that we can rest on what has been accomplished by Congress and proposed by this administration.

Mr. DOMENICI. Mr. President, a number of Senators have alluded to the very excellent work and contribution of Senator McClure with reference to this entire bill. I ask unanimous consent that a statement he prepared be made a part of the record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, much has been said already today on the floor regarding the many significant and far reaching energy initiatives included in this bill. I wish to join with my many colleagues on and off the committee in congratulating Senator Domenici, Senator Johnston, and other members of the conference committee for the fine product which they have brought us today. I believe, as they do, that this bill will be seen in years to come as the first major domestic energy production initiative taken by the Congress since the Arab embargo of 1973.

I am particularly proud to join them in bringing back a conference report which is carefully crafted to maximize new energy production in synthetic fuels, gasohol, other biomass energy, geothermal energy, low-head hydro, and other potentially significant domestic sources of

energy. I also am proud that this bill will accomplish such maximized production by stringently limited Federal Government role in the area of energy supply and production. All of these programs will be accomplished almost exclusively by Federal financial assistance and incentive to America's innovative and strong private industry. The new Synthetic Fuels Corporation will only have the limited and specified functions to provide the designated forms of financial assistance for private sector synthetic fuel development. The authorities and powers of this new Federal entity are strictly limited by the provisions of this bill and the bill makes clear that the Corporation can have no other authorities, functions or powers beyond those included in the bill. Strict enforcement of these statutory limitations and prohibitions on the Corporation and its directors and officers include injunctions that may be brought by the Attorney General or the Comptroller General, civil and criminal penalties, and other measures. The bill expressly prohibits any delegation by the President or any other Federal official to the Corporation and disables the application of the Reorganization Act for purposes of transferring the function into the Corporation. A series of other specific provisions in the bill prevent the Corporation from acquiring and holding or otherwise controlling any energy properties, projects or securities except on the most limited basis.

Mr. President, all of these provisions will insure that the new Synthetic Fuels Corporation will not become a Federal oil and gas corporation or another Tennessee Valley Authority or other example of the Federal Government's intervention into traditional private sector activities. As the author of almost all of these safeguards against Federal intrusion into the energy production and supply arena, I believe that we have properly fashioned and tailored this limited purpose, limited function, Federal entity to carry out only those specified forms of financial assistance to accelerate the development of synthetic fuels in the United States. It is on that basis that I am able to support the conference report today. Mr. President, I truly believe that this bill will demonstrate that Congress can effectively develop new and imaginative approaches to our national energy problems without destroying the essential fabric of our American free enterprise system.

At this time, Mr. President, I would like to clarify several aspects of the conference report which have been discussed of recent days. First, the Synthetic Fuels Corporation clearly is a special purpose, limited function entity of the Federal Government. It does not have the broad general grants of power and authority associated with traditional agencies or departments of the executive branch. At the same time, it clearly is not a stock corporation incorporated under either State corporation laws or chartered by the Federal Government.

Rather, it is a Federal entity which only has the authorities and powers included within the four corners of this bill for the very specific and limited financial assistance functions contained in the bill. It cannot have any expanded authorities, functions, or powers in the absence of an amendment to this act because of the many limitations and prohibitions I discussed earlier. I do not believe that there should be any difficulty reaching these conclusions on the face of the bill.

Mr. President, title II of the bill establishes an aggressive and well-balanced gasoline and biomass program in the Department of Energy and the Department of Agriculture. The combined \$1.2 billion program will provide the necessary assistance and incentives to support a near term multiplication of the Nation's gasoline and biomass energy production and will move us swiftly toward a 1991 goal of 10 percent of gasoline consumption using gasoline. Title II includes a number of provisions such as average set-asides, natural gas priorities, special gasoline allocation, mandatory title loans and solicitations and a \$500 million minimum authorization for DOE's gasoline program which I authored. These provisions will insure an aggressive near-term gasoline program rapidly spreading throughout the agricultural sector of the Nation. Assuming that we are successful in obtaining near-term funding for the title II program as I believe we will be, the gasoline and biomass programs will serve to establish new frontiers in both energy production and a stabilized agricultural economy for America.

Finally, Mr. President, I want to briefly comment on title VI, the geothermal title which I also originally authored in S. 1890, the omnibus geothermal energy bill I introduced a year ago. Title VI establishes exciting programs in reservoir confirmation drilling, reservoir insurance, non-utility feasibility studies and construction loans and amendments to the Public Utility Regulatory Policy Act to insure that both utility and non-utility geothermal electric projects are giving the full advantages of title II of PURPA, including the rate benefits in section 210.

Mr. DOMENICI. Mr. President, for the benefit of minority Senators, we have asked if any of them desire to speak either for or against the conference report, and two have responded, indicating they will be here around 3:30. If there are any other Senators on our side, we do have time, and we hope they will join in this debate as soon as possible, because if we do not have to use the entire 4 hours, we would want to yield back the remaining time after those indicating they want to speak have spoken. Hopefully that will save an hour or so.

Mr. President, I want to yield myself 5 additional minutes at this point.

I would like to take a few moments to explain some of the major differences between this conference report and the bill which the Senate passed. Before doing that I want to commend the distinguished Senator from Kansas (Mr. Dole) for his dedicated and diligent efforts with reference to SPRO, the strategic petroleum reserve. I think he was not generous enough in talking about his efforts. Without his efforts and the efforts of Senator Bradley pushing very hard for the reserve and the commencement of filling it I do not think we would have the aspect of the bill that has been described with reference to that particular standby facility and standby need.

The first major difference in this bill is the conference approved a \$1 billion interim House program to be made immediately available in the Department of Defense using amendments to the Defense Production Act as authority. This interim program would:

- Use money made available upon subsequent appropriation;
- Use authorities including purchase and price agreements, and
- loan guarantees;
- Not include any GOCO authority;

End when President determines Corporation is "fully operational." Then this aspect of the DPA will cease and a standby synthetic fuel authority will be in place.

The conferees approved a standby synfuel authority in the Defense Production Act to be available only when a severe energy shortage exists (25 percent of defense fuel supplies).

Authorities available in the standby program would include:

Purchase and price agreements, loans and loan guarantees, as in the interim program;

Authority to construct GOCO's except each must be specifically approved by the Congress through the regular authorization process;

Authority to require suppliers of fuels to provide synfuels for defense needs;

Authority to install Government-owned equipment in Government or privately owned facilities.

I mention once again that these are all predicated upon 25-percent supply interruption, and they are standby at this point.

The conferees agreed to the following major changes in the Senate-passed bill:

GOALS

National synthetic fuel production goals are 500,000 barrels per day by 1987 and 2,000,000 barrels per day by 1992 instead of 1,500,000 barrels per day by 1995.

CORPORATION AND BOARD

Corporation is named the United States Synthetic Fuels Corporation;

Board will consist of seven members rather than five and each will be appointed for a 7-year term after the first initial staggered appointments;

The Secretaries of Energy, Treasury, Defense, and Interior, the Administrator of EPA and the Chairman of the Energy Mobilization Board will comprise an Advisory Committee rather than sit on the Board as nonvoting members;

An office of Inspector General has been established all of which was aimed at making sure that the entity we create in the statute was in deed following the law and responsive to the will of the Congress as described in this bill.

The phases are phase I and phase II. Phase I is funded to the limit of \$20 billion, less the amount obligated to the Defense Production Act, and DOE; \$2.2 billion under the Federal Non-Nuclear Act program, to the extent that that is not used or that its projects can be transferred they would go to the corporation. Other authorities under phase I are essentially unchanged.

In phase II, the comprehensive strategy remains intact with a few modifications. It comes to the Congress in 4 years, rather than 5, and Congress must approve the resolution providing funds by joint rather than concurrent resolution, but under expedited procedure. Committees and individual Members on the floor could amend the funding level in the resolution but only as to the total amount. No program limitations could be placed on the funds. The strategy would include

not only a description of the technical strategy of the corporation, but its financial strategy as well.

I believe it is important to note that the essentially private corporation character of the Senate bill has been preserved, although the conferees have, in my opinion, properly and prudently clarified the degree to which this corporation is considered to be a Federal entity.

The water policy worked out in discussions here in the Senate, after many hours in committee, has been preserved. In other words, the water rights and water laws of the respective States will govern water availability for synthetic fuels.

The GOCO policy, which was of great concern here on the floor when we debated the issue and still legitimately concerns a number of Senators, that policy basically provides that there will be only three GOCO's possible—and I say "possible" in its literal meaning—and they would all have to occur in phase I. The proposal for phase II cannot contain any GOCO's.

Now, these three are available under some strict conditions. Basically, those conditions all move to the proposition that we did not want GOCO's unless there had been a total failure in obtaining production proposals from any other means. That was the will of the Senate when the bill left here and it is preserved in this conference.

The GOCO authority in the Defense Production Act amendments conforms with this policy. Only in the standby activities could the President engage in GOCO construction and then only after the project is specifically authorized by Congress.

Mr. President, I wish to conclude these remarks by once again saying to my good friend from Louisiana (Mr. Johnston) that it has been a real pleasure and privilege to work with him for all these many months on this bill.

I do not think there is any doubt in anyone's mind of the 56 conferees from the House and the Senate—it has been reported here on the floor that is the largest conference we have had on any major legislation in the history of the Congress—I do not think anyone could have held that together, with the diversity of views, the expertise, the tremendous disparity between the bills that went to conference, I do not think anyone other than the Senator from Louisiana could have maintained that in a posture of "Let's get it done." I do not think we would have had the bill here but for that commitment on the Senator's part and the consistent effort to work on the Senate side in a bipartisan manner and to work with all the various committees in the House over these many months.

I thank the Senator again. I am sure this bill is going to be a giant step forward, the birth of a new major industry, and a real commitment toward energy independence. I know the Senator is going to take a great deal of credit and he is going to be very proud as it begins to function toward making this great Nation of ours use its resources so that we can continue to grow, prosper, and rid ourselves of the yoke of dependence that befuddles us today.

Mr. Johnston addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I wish to thank my distinguished colleague from New Mexico for his very generous remarks. It

tomary in these matters to congratulate everyone concerned. But when I congratulate the Senator from New Mexico (Mr. Domenici) for the work he has done, it goes beyond the usual and customary and simply surface congratulations, because it has been his work, to a very large extent, that has made this bill possible, not only in drafting of the initial bill in which so many of the concepts here were taken, but the work through the long hours and days and weeks and months of this conference committee.

This was an extremely diverse and disparate group on both the Senate and the House sides. Many, many different interests had to be reconciled.

Mr. President, I am extremely pleased with our product, considering the diversity of the interests, the disparate nature of all of the players involved in this, that we came up with a product which is so good and so workable.

I say, without any hesitation, that the bill we finally came up with is much better than the product as it left the House and much better than the Senate product as it left the Senate. We have all of these titles, each one of which I think is extremely workable. And that is testimony to a real team effort on behalf of the Democrats and Republicans in both the House and the Senate.

I can only say, Mr. President, that I am extremely glad that I did not say what I was thinking at times about some of our colleagues in in the House as we were unable to get agreement, as we would make an arrangement with one group and have it vetoed by another group. Sometimes it seemed as though we did not know who to negotiate with and, when we thought we knew, we turned out to be wrong so much of the time. But we ended up, Mr. President, with an extremely cooperative attitude with all of the diverse groups in the House.

As I said initially, great credit goes to the majority leader and the committee chairmen in the House for bringing their groups together. It was not because of willfulness or being arbitrary that made it difficult. It was simply because there are so many points of view and so many interests to be reconciled that it made it so difficult. So the enormity of the accomplishment, I think, cannot be underestimated in bringing from what seemed to be confusion a project that is going to work.

The United States Synthetic Fuels Corporation will work. The Defense Production Act, in its limited scope initially and in its standby scope later, will work. We will put on line synthetic fuels from this bill. This is our best defense so far, in my judgment, against predatory pricing practices of OPEC.

I again thank my distinguished colleague from New Mexico (Mr. Domenici). And I especially wish to thank, Mr. President, our staff on the majority side who have labored literally around the clock. They have been up all night, literally, for days on end. Richard Grundy, of our staff, who was recently wed, has not seen his wife for a matter of weeks. She will now be glad to get reacquainted with him.

Mr. DOMENICI. We hope.

Mr. JOHNSON. We hope she will still allow him in the door.

On the Republican side, Mr. President, they have an outstanding staff that have gone above and beyond physical efforts, in just staying

up, and mental efforts in being really creative and helping us to put together this bipartisan effort.

Particular mention should be made of the following staff from the Committee on Energy and Natural Resources: Dan Dreyfus, Owen Malone, Ben Cooper, Jim Bruce, Pete Smith, Lee Wallace, Ira Dorfman, and Veronica Keen; minority staff of the Committee on Energy and Natural Resources: Steve Hickok, Chuck Trabandt, David Swanson, David Russell, and Howard Useem; and from the staff of the Committee on Agriculture: William Leshner, Philip Iraas, and John Bode; and from the staff of the Committee on Banking, Housing, and Urban Affairs: Paul Winslow, Leon Reed, and Linda Zemke; and from the Congressional Research Service: Robert D. Poling; as well as Richard Olson from the office of the House majority leader.

Mr. President, as I said in my opening remarks, I think this is a tribute to the fact that energy is so important that we can operate on a bipartisan relationship in this Congress. We have done it all year in virtually every major piece of legislation we have put out—I think every piece, as a matter of fact. It has been a joint project.

The Senator from New Mexico and the Senator from Oregon are certainly to be congratulated.

Mr. DOMENICI. The Senator does not include the windfall profit tax as an energy-producing measure in the list of bipartisan-supported measures, is that correct?

Mr. JOHNSTON. I did not include that because that did not come from the Energy Committee.

Mr. DOMENICI. I thank the Senator.

Mr. JOHNSTON. Mr. President, I yield to the Senator from West Virginia such time as he desires.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I had the privilege, through the generosity of those who are managing this bill, to speak earlier this afternoon.

My purpose now is not to be one of the last to speak, or to speak a second time, except to speak in words of truism and realism about the importance of this measure to not only the strength of America during these troubled times of so-called peace, but, certainly, a measure that in the years ahead will help to buttress this Nation and all our people against the vulnerability that can and would take place from nations that are today not only unstable but unfriendly, nations and countries which supply us with petroleum in the amounts they desire to sell us and at prices they wish to charge us.

Earlier today I spoke of my commendation, a very sincere one, for the initiative and the leadership of the Senator from Louisiana (Mr. Johnston), and of others as the Record will indicate.

I placed in the Record, not that I felt that it might be done by me but it seemed appropriate, not being a member of the committee or a member of the conference but one intensely interested in what we have done, all the names of the conferees of the Senate and House because I believed that here is a catalyst of commitment that has seldom been seen in the Senate. For that reason, all the names of the Senate and House conferees, even with varying viewpoints, have been included.

Mr. President, no navigator ever distinguished himself on a calm sea. We are in troubled, rough waters in this country. I believe those

who are at the rudder of our ship of state, including the crew on Capitol Hill, are doing something in the next few minutes, I hope, which will find practically every Member of this body pulling his or her oar.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from West Virginia for his remarks. I congratulate him for his work not only on this bill but on energy through the years.

Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Idaho such time as he may desire.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, it is my hope and belief that with the passage of the Energy Security Act, the United States will finally turn the corner in our fight for energy independence.

What makes me optimistic is the approach that this legislation takes. The availability of financial incentives for the commercialization of a variety of technologies assures us that not only will we avoid placing all of our monetary eggs in one basket, but also that it reserves a place for the participation of farmers and small business people in the development and growth of these energy industries. Thus, the Energy Security Act can become not only our declaration of independence from OPEC oil, but also from the major oil companies of this country.

It gives me some measure of assurance knowing that the farming community, the backbone of our economy, will have a major role to play in the development of the alcohol fuels portion of the synthetic fuels program.

I am especially pleased that the conference report has retained the bulk of both my gasohol and geothermal bills. With the production goals for alcohol fuels, originally established in my gasohol legislation, retained by the conference committee, we aim to increase the current national production levels of alcohol by more than tenfold by the end of 1982, and replace a full 10 percent of our gasoline consumption by 1990. Such ambitious goals will create healthy new markets for our farmers. I have no doubt that Idaho, blessed with much fertile cropland and an abundance of natural hot water to facilitate alcohol production, will play a leading part in the gasohol program.

To assure that we can meet these goals, the conference committee has also retained my bill's provision to establish within the Department of Energy an independent Office of Alcohol Fuels, the Director of which will be accountable directly to the Secretary of Energy.

Financial assistance in the form of loans, loan guarantees, price guarantees, and purchase agreements should provide the incentives that are required to reach these goals. It is important to note that these funds will be used to construct plants, not to expand the Federal bureaucracy. We have gone to great lengths in the conference report to assure that existing agencies are utilized to the fullest extent possible in administering this program. Consequently, a large portion of the alcohol fuels program will be run through the Farmers Home Administration, to avoid unnecessary and wasteful duplication.

We will also require the Federal Government to stand ready to take action by requiring it to become the purchaser of last resort of the alcohol for use in its fleet vehicles, should alcohol producers be unable to find purchasers elsewhere.

Mr. President, I also wish to call the attention of my colleagues to title VI, much of which was derived from my bill S. 1388. The title provides significant financial assistance for the development of geothermal energy, especially for direct heat uses in industry and for space heating.

Geothermal energy has been long recognized and used in various places throughout the West. In Boise, we have one of the oldest natural hot water heating systems in the United States. Idaho has also been leading the way in geothermal-based electric generation, with the Raft River pilot plant. This plant will test a new technology, the binary cycle, at a sufficient size to go to the next step, to demonstrate the economic viability. If successful, this plant could open up vast underground reservoirs of natural hot water which are now considered of dubious use.

Just as important as these new technological developments are the entrepreneurs who need to take the risks of going out to drill the wells. Geothermal energy is about at the same point of development as petroleum was in the latter part of the last century. At present, geothermal drilling prospects are usually located by surface manifestation such as geysers or hot springs. What is needed now is a burst of drilling activity to accumulate much more information about locating reservoirs and understanding their characteristics.

Title VI will establish financial assistance programs in DOE to promote exploration and confirmation of geothermal reservoirs, pursuant to the reservoir confirmation loan provisions originally contained in S. 1388. Five million dollars is authorized for the next fiscal year for this program, while \$20 million is authorized for the following 4 fiscal years. The title also contains \$5 million for fiscal year 1981 for loans for feasibility studies for direct heat applications of geothermal resources. DOE is also directed to conduct a study of reservoir insurance in cooperation with the insurance and reinsurance industry, utilizing the language adopted previously in title VI. No additional funding would be authorized for this study.

The conference also adopted provisions which would allow geothermal loan guarantees of up to 90 percent for an electric cooperative or a municipality. The loan guarantee program was extended until 1990, and authority was added for loan guarantees for transmission lines, up to 25 percent.

In addition, the conferees adopted an amendment to the Public Utility Regulatory Policy Act, which would exempt small geothermal plants—that is, under 80 megawatts—from Federal and State regulation.

Mr. President, I urge my colleagues to adopt the conference report. It represents a plan of action that is well balanced, thoughtfully assembled, and absolutely essential if we are to achieve the energy independence our country so urgently needs.

I will conclude by congratulating the distinguished Senator from Louisiana for his heroic efforts in the conference and the success that

he has realized in finally bringing the energy bills to consummation, this being one of them. I commend him for the hard work he has done through many, many months. I want him to know how much I admire his patience and tenacity.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Idaho for his very generous remarks.

I might say, Mr. President, that, in my judgment, we would not have a gasohol section in this bill were it not for the heroic efforts of the distinguished Senator from Idaho who introduced the initial amendment, and who helped us negotiate through many long hours. We have a workable gasohol provision here, \$1.2 billion in scope. It will produce a lot of gasohol. It is there to a predominant extent because of the efforts of the Senator from Idaho.

Mr. CHURCH. I thank the Senator.

Mr. DOMENICI. Mr. President, I yield 15 minutes to the Senator from Colorado.

Mr. President, a parliamentary inquiry. How much time have I remaining?

The PRESIDING OFFICER. The Senator has 66 minutes remaining.

Mr. DOMENICI. I thank the Chair.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator for yielding to me. The fact that the energy security bill, S. 932, is before us today is attributable in large measure to the legislative skills of the Senator from New Mexico, the distinguished Republican manager of this bill, and also a tribute to the great precision, patience, skill and dedication of the chairman of the conferees, the Senator from Louisiana.

I have said privately to my two friends who have been instrumental in bringing about the passage of this bill that I regard it as a masterful accomplishment of legislation. I regret that my purpose in rising is to invite other Senators to join me in killing this bill. I do so knowing full well that this achievement which they have brought to the floor today may be the single most skillful exhibition of legislative craftsmanship we have seen in many, many years.

It was a difficult bill to begin with. The conference was incredibly complicated. I congratulate my friends for their efforts.

Nonetheless, it is my conviction that this is a very undesirable piece of legislation. I made that observation at the time the Senate considered it. I would be remiss if I did not point out that the conference committee has greatly improved this bill. In my judgment, it is a far better piece of legislation than either the Senate bill or the House bill which preceded it.

For example, the conference bill contains important restrictions on the President's power to compel private sector synthetic fuel production. It makes the new Synthetic Fuels Corporation more accountable for its actions than the original version of this legislation.

The bill earmarks less than a quarter of the \$88 billion originally proposed for the Synfuel Corporation.

So there have been important improvements made in this legislation.

However, even with these desirable improvements, in my judgment the bill does not represent a sound legislative approach to the Nation's energy needs. Of particular concern to me, and of very special and

eminent concern to the people of my State, is title I, the Synfuels title. This proposal to create a Synthetic Fuels Corporation which would use loans, loan guarantees, purchase and price guarantees and joint ventures to stimulate a domestic synthetic fuels industry, and then, if an industry does not develop under those terms, create up to three Government-owned synfuel plants, sounds like a very glamorous and desirable proposal. However, in my judgment, it also has the potential for great mischief.

Just to review where we are, while the corporation is being established the President could use his authority under the Defense Production Act to purchase up to \$3 billion in synfuels. Once the corporation is established the DPA authorization would then be put on standby to be used only in case of war or national emergency. The Corporation's first job is to establish a \$20 billion phase I synthetic fuels program designed to reach by 1987 an interim production goal of 500,000 barrels per day, about 4 percent of the current U.S. oil consumption.

This concept has considerable superficial appeal. Obviously the Nation does need synthetic fuels.

With the OPEC nations becoming more and more intransigent, a crash program such as seems to be contemplated by this legislation seems like a symbol of our moral and financial commitment to get unhooked from foreign energy sources. It is bold, it is dramatic. Unfortunately, it seems to me that it is the kind of move that arises when people reach the point that they think we have to do something, even if it is wrong. For this idea, the Synthetic Fuels Corporation is a seriously flawed concept, in my judgment. The Synthetic Fuels Corporation may actually impede, rather than stimulate, synthetic fuel production and it threatens serious adverse environmental consequences.

Let me explain why I feel this way. The Synthetic Fuels Corporation is an idea which originated with people who have little or no direct experience in production of synthetic fuel. It is not, so far as I am aware, supported by those who are knowledgeable of what it takes to stimulate meaningful production of energy from oil shale, tar sands, coal, and other synthetic fuel substances.

In fact, I think it is very instructive, Mr. President, that over the months leading up to the passage of this legislation, the committees of the Senate and the other body heard much testimony from industry experts, economists, engineers, financiers, scholars, and consultants. We called these authorities in and, in effect, we said to them, "what will it take to get synthetic fuel production moving?" Interestingly, practically none of them suggested creation of the Synthetic Fuels Corporation or a similar massive bureaucracy. Instead they have recommended the following kinds of measures designed to cut redtape and provide incentives for the private sector: Fast track permitting process; decontrol of oil and natural gas prices; production tax credits (such as \$3 per barrel tax credit) for oil shale which has now been enacted; accelerated depreciation; guaranteed purchased plans or similar incentives.

They did not recommend at that point the creation of a bureaucracy such as is entailed in this Synthetic Fuels Corporation.

No one knows the ultimate cost of developing synthetic fuels. Consultants point out that the estimated cost per barrel of synthetic fuel seems to be going up every time a new study is made. "Although there are many contributing factors * * * the most important single influence seems to be a steadily increasing knowledge of costs, as a result of more detailed engineering design," according to PACE consultants who have looked at this issue.

Synthetic fuel developed by the private sector will be subject to the stringent discipline of market economics. Many diverse ideas will be considered. But under the private approach, only when individual firms or consortia are willing to risk their own money on an idea, will large sums be spent. Government administrators, on the other hand, often push expensive large-scale programs when technological or economic factors do not warrant such development.

I am not talking about just in synthetic fuels; I am talking about the common experience of large-scale government programs.

Hundreds of millions of dollars have already been committed by private-sector companies to the production of synthetic fuels. Some companies say they are awaiting only the release of Federal lands for development, a step which we think is imminent. Another company states it will proceed at once with a large-scale synthetic fuel production plan immediately upon the enactment of a \$3 per barrel tax credit which has been approved. Under the circumstances, I suggest to my colleagues that it may turn out that creation of another large government bureaucracy may ultimately slow down, rather than stimulate, existing and contemplated synthetic fuel production plans and discourage companies from going ahead.

After all, what company, what chief executive officer, what board of directors will be willing to proceed to do on their own, at their own expense, risking their own capital, to do something without a subsidy when the same task may be done with a Government subsidy?

Let me also point out two other concerns that trouble me about this legislation. The Synthetic Fuels Corporation has often been compared with the Manhattan and Apollo projects. However, both of these projects had a single customer for their output: The U.S. Government. And for these projects, cost and economic factor was not a primary consideration. There was no substitute product on the shelf that could be used if the new product turned out to be too costly. If the devices worked technically, the projects were deemed a success. But energy technology, such as synthetic fuel development, will be successful only if many individual users, each considering a different situation, decide that the new technology has economic advantages over a wide array of alternatives available in the market.

Finally, let me make this point about the bill itself. If the Government bulldozes ahead with a large-scale program, the impact upon the environment is likely to be far more adverse than if multiple, diverse, small-scale efforts are undertaken within the discipline of the private economic market. A crash program, based on political rather than economic or technological considerations, is likely to have seriously adverse environmental and social consequences.

For these reasons, Mr. President, I believe it would be wise not to enact this legislation.

Mr. President, may I inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. ARMSTRONG. Mr. President, I should like to use those 3 minutes to express one additional concern which does not relate directly to the bill, but, rather, to the process by which this bill has been brought up for a final vote. I do not mean to be a crank about this, but, Mr. President, we do not have a printed conference report. This bill has been under development for more than a year. The synthetic fuels legislation is one of the largest and most costly pieces of legislation to come before this Congress. The bill is 400 pages in length. It creates a new synfuel corporation that could cost upward of \$23 billion and may go ultimately to \$88 billion. We do not have the facts before us in a time sequence that permits Senators to evaluate carefully what we are voting on.

That is the same thing we did on the Chrysler bill, it is what we always seem to do on tax legislation. I want to suggest, Mr. President, that that is not a responsible way to go forward.

The distinguished Senator from Louisiana pointed out, properly, how hard staff has worked, how they have been up all night and have not been home to see their families. I believe that is true. I think that is symptomatic of a very bad custom in this body, which is to take the most complex legislation and high-pressure it through, both at the staff and Member level so that we do not have the kind of time, Members or staff, for study and reflection to really know what we are voting on. That is exactly what leads to the passage of ill-considered legislation, not well understood by the Members or the public, and, frequently, the mistakes—the classic mistake of that kind being the decedent's carryover basis which was put by a conference committee in a tax bill when none of the Senators knew what was going on.

I do not say this in any way to deny the tremendous effort put in on this by staff but to raise the procedural question, as I have before, that it is not right to ask Senators to vote on legislation when they have not had an opportunity to know what it is they are voting on.

The point has been made or could be made that many Members participated in this conference—I, indeed, was one of those who did participate—that therefore, since so many Members participated, they really had a chance to know what they are voting on. Yet when we realize that staff was staying up all night or late into the night, even this week, that, as a practical matter, is not the case.

Moreover, let me suggest that even if every Member of the Senate understood fully what was being voted on here today, that still does not fulfill the even more important need for the public to have the right to know what is being voted on before it is voted on so that the public, whose interest we are here to serve, has the opportunity to react, to give advice, to give us feedback. In effect, the public is denied that opportunity of participation.

Mr. President, it seems to me that, at the right time, the Senate should adopt a rule which would preclude such hasty consideration of conference reports. I should like to express that concern. It relates not just to this bill, but to many.

I hope that many of my colleagues will join me, at the appropriate time, either to amend the rules or at least to establish a new tradition that a conference report should be printed and made available to Members at least 72 hours before we are called upon to vote on matters such as this.

Again, my thanks to the Senator from New Mexico for his courtesy in permitting me this opportunity to speak.

Mr. DOMENICI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 53 minutes and 22 seconds remaining.

Mr. DOMENICI. How much time does the Senator from Minnesota want?

Mr. BOSCHWITZ. Five or six minutes.

Mr. DOMENICI. I am going to give him 5 or 6 minutes, whatever he would like. First, I should like to thank the Senator from Colorado and comment on his remarks.

Mr. BOSCHWITZ. Surely. I am going to comment on the same matter, I say to the Senator.

Mr. DOMENICI. I certainly was not going to compliment him for the last part of his statement, but somewhere in the middle.

Mr. President, I think the Senator knows that we on the conference and those of us who were involved in the whole thing, as compared with one title, are extremely grateful for the help the Senator provided in two or three major areas that this bill encompasses.

The partnership relationship with the States, where we have clearly indicated that we intend this to be as cooperative as possible, where we actually will ask the States if they are interested in this kind of project and want to work with the Federal Government to expedite, that State will be given preference in terms of a project. But their laws will be complied with.

In the water section, it was through the Senator's efforts that we took the issue of States' right to manage water and moved it over to the Defense Production Act. It was not in there.

I think the Western States in particular, when they understand the full scope of this policy change, especially if DPA gets moving with some synthetic fuel production, it will be an enduring aspect and the Senator can take great credit for it.

So while he does not feel title I will stimulate the industry, we both probably feel it must commence in this Nation.

While we do not agree we should use this corporation as a financing mechanism, and that is what it is principally, I think we do agree that significant financing, in the billions of dollars, will be required for American companies to create this new industry.

I think it could be this way, the Senator thinks it could be another way.

I merely want to add one observation.

Generally, I agree philosophically with the Senator. But I am extremely suspect of the witnesses that said, "We can do it alone, just give us tax cuts, give us accelerated depreciation," because I really believe they have been saying that for a long time and nothing has happened significantly.

Second, and more important, I just do not believe there will be any diversity of ownership.

When we look at American companies to find ways to finance a \$2 billion plant without the Government saying, "We will lend you part of it," we will encourage consortium to be formed.

I submit that only a few major, major American companies, predominantly huge major oil companies, will end up owning this whole new industry, apart from some involvement in diversifying the financing mechanism and encouraging diversity of ownership, all coal oriented, all technology development oriented.

I am not suggesting they will do a better or worse job, just suggesting the Senator ought to understand, and I know he does, that it is these kind of things that caused the Senator from New Mexico to be supportive of this measure and to have been a part of encouraging its finality and adoption here today.

I thank the Senator for his participation and his comments.

Mr. ARMSTRONG. Will the Senator yield 1 minute?

Mr. DOMENICI. I am pleased to.

Mr. ARMSTRONG. I want to make an observation, Mr. President, that the Senator from New Mexico has responded to my earlier statement in a way that underscores why he is one of the most widely admired men in our body and why he is admired by people all over the country.

I have spent 15 minutes criticizing a piece of legislation which is really a monument to his legislative skills and his response to me is to compliment me for the very small participation I had.

Even though we disagree on this particular issue, I treasure our friendship. It pains me that we are not in full agreement on this particular issue.

But I wanted to express how much I appreciate not only his response to me today, but over the last year. While we have disagreed on this issue, and even though I will not vote for this bill, I presume it will pass. I compliment him on his victory and hope that the bill does everything he expects it will.

Mr. DOMENICI. I thank the Senator.

I yield as much time as Senator Boschwitz desires.

Mr. BOSCHWITZ. I thank the distinguished Senator from New Mexico.

Mr. President, I hope that he is correct when he says that, indeed, other than the very large oil companies of the country, who are going to enter into the production of synthetic fuels.

In my judgment, from looking at the bill, in all probability, it will be just those people who will receive the benefits of the bill and that at the end, the \$88 billion, or many billions that will be on the bill, will probably be in relief and assistance of those companies.

I simply cannot believe that companies of smaller stature, less stature, of smaller capitalization, will be able to become involved in this.

Of course, as the Senator from New Mexico knows, the U.S. Government can become involved in the ownership of these plants, at least, as I understand it, to the extent of 49 percent, and financing up to 75 percent.

But I want to join my colleague from Colorado in objecting to the fact that we have not had a conference report prepared on this, making quite clear my understanding that it came up today, to some degree, as an accommodation to Members on this side of the aisle, inasmuch as

we wanted to get together with our Presidential candidate, and other things were before us.

So my objection, really, is the idea of a bill coming without a conference report.

I also have the understanding that in this particular case the bill was cleared with many people, I understand upwards of 60 people, in both Houses, which is about 1 out of 10 Members.

Nevertheless, I see the end of a session coming, which will be very busy. I have never been in the legislature before. I have never been in the final 2 or 3 days of a session.

I wonder if we are going to, at that time, also have a large number of bills that will be without conference reports, in which case I, and I believe other Members, perhaps of my vintage, new Members of the Senate, will object and perhaps delay the proceedings.

I remember very well my colleague from Colorado speaking as we were about to adjourn for the Christmas season, about the fact that we were considering at that time a bill and the conference report had not been prepared and distributed, or it had not been distributed, or prepared in a very rough manner.

I know that this is a most complex bill. I congratulate the Senator from Louisiana for his part, and my friend from New Mexico. I do not serve on this committee, but on another committee with him. I always enjoy his comments and his insights.

But this is a bill that is hundreds and hundreds of pages long, that involves nearly \$90 billion, that has been under consideration for a good long time.

So, indeed, we have a pretty good understanding of it. It would not take long to consider and observe the conference report which, to a large degree, would be a repetition, but not always, as the Senator from Colorado points out.

So without expressing my objections to the bill, which are somewhat along the line of the Senator from Colorado, I do want to express my objection to the fact that we are without a conference report.

My understanding is that the lack of the conference report was, to some degree, an accommodation of our side of the aisle, and I understand that. But more from the standpoint of alerting the leadership and other Members, we hope that at the very end of our session, we are not going to be confronted with a large number of bills, without proper time to consider them, proper time to study them, without the public having proper time to give them consideration as well.

I thank the Senator from New Mexico.

Mr. TSONGAS. Mr. President, this bill has been popularly referred to as the synfuels bill, but that is a misnomer. It is an omnibus bill that goes well beyond synfuels. The actual title is the Energy Security Act. If the appropriations come through this year, it truly will improve our Nation's energy security. Though I still feel that the bill overemphasizes synfuels, it is a comprehensive approach that has major new initiatives for conservation and renewable resources. Now that the bill has been approved, I hope that increasing attention is given to the conservation and renewable resource provisions, which include a broad range of initiatives.

For wood and alcohol fuels biomass production, there is a \$1.2 billion program of loans and loan guarantees. For urban waste, there is \$250

million in price support loans. For hydro, there is extension of the \$110 million feasibility loan program. For geothermal, there is \$90 million for feasibility studies, loans, and guarantees.

The Energy Security Act also establishes a Conservation and Solar Bank, which I introduced last year. The bank will provide subsidies to local financial institutions that offer below-market-rate loans or principal-reduced loans for conservation or solar improvements in existing homes. The bill provides \$2.5 billion for conservation loan subsidies during the first 4 years, and \$525 million for solar loan subsidies during the first 3 years.

The interest subsidy mechanism is a highly effective one that overcomes high initial cost and high carrying costs. The subsidy levels are adjusted to give moderate- and low-income individuals higher subsidies—up to 50 percent for conservation and 60 percent for solar. For low-income individuals, the 50 percent conservation subsidy can be in the form of a grant. The bank also will provide subsidies for commercial and multifamily buildings. Unlike current tax credits, this subsidy mechanism can benefit nonprofit organizations that incur no tax liability. Unlike existing tax credits, the Conservation and Solar Bank includes passive solar as an eligible activity.

There are also other important conservation measures. These include an innovative residential conservation program utilizing private energy companies; a program to train energy auditors; modifications to the weatherization program to make it more effective; and modifications to the utility conservation program to encourage utilities to take a more active role in delivering conservation. The bill requires the Federal Government to use life cycle costing in evaluating conservation and solar improvements in Federal buildings, and to use gasohol in Government fleets.

This legislation lays out a strong, comprehensive program. It is a good first step for us in the first year of what will be a difficult decade. Its effectiveness will depend on how well we appropriate funds to make these programs operate. If we want to use this bill to protect this Nation's security in the near term, we must fully fund those programs with quick paybacks, such as the Conservation and Solar Bank.

The President's original budget request called for \$300 million for the Conservation Bank and \$150 million for the Solar Bank. The budget resolution accounted for these full amounts. Last year in the Interior appropriations bill, as a result of an amendment I offered, the Congress set aside \$1 billion to protect funding for these solar and conservation programs in the first few budget years. S. 932 authorizes only \$200 million for the Conservation Bank and \$100 million for the Solar Bank in fiscal year 1981, in order to take into account startup time and the tight budget situation. I urge my colleagues to support full appropriations for these critical programs.

We must decide energy policy in the context of national security. This year the United States will send approximately \$90 billion overseas for oil. The unreliability of foreign supplies is even more dangerous. We are caught up in a dangerous game of OPEC roulette.

Mr. President, I am pleased that the Energy Security Act is about to become law. It is a positive, comprehensive contribution to American energy security. But we must remember that there is much unfin-

ished business on energy. We must resolve to finish it, or be resigned to our Nation's decline.

Mr. STEWART. Mr. President, I would like to commend the Senators from Washington, Louisiana, and Wisconsin for the leadership they have shown in bringing this conference to a successful conclusion. It has been a long, difficult, and enormously complicated process, and their patience and forbearance has been indispensable.

This omnibus legislation will serve as a key underpinning of our national energy program. I supported the creation of an Energy Mobilization Board to cut through bureaucratic redtape and expedite the permitting and regulatory process for designated priority energy projects. I also supported the placing of a windfall profit tax on the massive, unearned profits realized by oil companies as a result of the President's decision to decontrol the price of domestic crude oil. Without this tax, today's legislation would be unthinkable, and a whole range of promising alternative technologies, many of which have the potential to provide liquid fuel alternatives to foreign oil, would have been neglected.

It is no secret that our excessive and dangerous dependence on foreign oil has reached catastrophic proportions. Our \$90 billion annual fuel bill for foreign oil wreaks havoc on the domestic economy. Our reliance on foreign oil to meet over 40 percent of our oil needs seriously compromises our foreign policy objectives. Failure to take strong and decisive action in the face of this clear and present threat would, in my opinion, be a grievous error.

It has been a long time since my Subcommittee on Agricultural Research and General Legislation first held hearings on alcohol fuels last August. It has been almost as long since I introduced the Rural Energy Independence Act. I must say today that the wait has been worth it. With passage of this legislation the Senate sends a loud and clear signal to the American people that alcohol fuels are to be an important and significant portion of our future energy mix.

I believe the level of funding established in this legislation will launch a viable alcohol fuels program. I am also pleased that the conference has recognized the delivery capabilities of the Agricultural Extension Service. I am perhaps most pleased that the conference has recognized the vital contributions small-scale, onfarm stills are capable of making, and has tailored the legislation to meet the special needs of farmers for technical information, demonstrations, and financing.

There is an unfortunate tendency in this country to always assume that bigger is better. In the energy field, this attitude is translated into a preoccupation with large-scale, capital-intensive, multimillion-dollar projects. Sometimes, I think the 11th commandment around here is "economies of scale." But in the field of alcohol fuels, there are other economies involved—economies in transportation, storage, and byproduct utilization—all of which favor the small producer. There is no doubt in my mind that the day is not far off when the American farmer and our rural communities will be energy independent.

This legislation represents a major commitment to alternative energy technologies. I would note, however, that one funding mechanism, purchase agreements and price guarantees, will ultimately cost the

Government nothing at all if OPEC price increases follow current trends. Furthermore, the Government could well wind up making money off the interest paid on loans and loan guarantees, the other major financing mechanism.

Ultimately, the money spent or loaned or pledged by the Government will be of little importance compared to the time, energy, and resources that will need to be mobilized by the private sector. I have full confidence that the American people will meet the energy challenge. I can state without reservation that the people of Alabama stand ready to make their contribution to this great national cause.

Mr. BUMPERS. Mr. President, S. 932 is undoubtedly important legislation, and I rise to express both my support and my reservations.

This omnibus bill embodies the national energy policy for which we have been working for 7 years. It addresses both sides of the so-called "energy equation," that is, both supply and demand. The most important feature of the bill is the creation of the solar and conservation bank which will subsidize the conservation efforts of individual homeowners and renters and of some commercial enterprises.

Conservation is the most important element of this energy policy, and the method employed by this bill to achieve conservation is its most important innovation. Although many people pay lip service to conservation, they do not really want to practice it. Some people equate conservation with a reduced lifestyle, but it should be the opposite. For example, a well-insulated home is much more comfortable than an uninsulated one. Some people argue that increases in energy consumption mean improvements in the economy, but the opposite may be true. Certainly, a large portion of our current inflation is traceable to rising energy prices. A recent study by the Congressional Budget Office, for example, has revised upward the estimated impacts of oil decontrol upon the consumer price index. The CBO now estimates that consumer prices will increase by about 2.6 percent by 1982 purely as a result of oil price decontrol.

Also, a recent study by the Harvard Business School demonstrates that there has never been a correlation between gross national product and the consumption of energy. This is understandable, because energy which is wasted cannot contribute to the gross national product. Only productive uses of energy can make such a contribution.

It is essential to note that the cost to the economy of imported oil is far greater than its nominal cost would indicate. The Harvard Business School study concluded that the ripple effect of energy prices would cost the economy \$80 for a barrel of imported oil costing \$16.

In addition, we have a great potential for conservation, because we waste nearly 40 percent of the energy that we use. If we eliminated that waste today, we would today eliminate the need to import any oil. That would give us the time and the opportunity to plan carefully for future energy development. We could proceed to develop synthetic fuels and renewable resources with the assurance that the environmental consequences will be acceptable.

Clearly, conservation is a quick, cheap, certain and permanent, and necessary solution to the energy problem.

The difficulties with achieving better conservation have not been with the recognition of its value, but rather with disagreements over the best method of achieving it. Conservation cannot be merely equated

with higher prices, which are a means of punishment, not encouragement. Thus, the true significance of the conservation title of this measure is its determination that conservation should be encouraged, not as structural alterations of buildings. The bill acknowledges that there are many people who recognize the need to conserve but who can only conserve by suffering in the cold, rather than by weatherizing their homes, simply because they do not have the money to do a thorough job of it. It provides matching funds for those people to make complete weatherization possible. For those who are better off, the bill provides subsidized loans as an inducement to make their homes as energy efficient as possible.

In addition, the bill makes important strides in developing renewable resources. It provides subsidized loans for the installation of solar devices. It also provides support for biomass activities. These are essentially conservation activities because they conserve nonrenewable resources.

I am certainly hopeful that the vast amounts of money which are targeted for synthetic fuels will successfully hasten the development of fuels which are environmentally acceptable and commercially competitive. That would be a triple success, because it would not only insure the clean use of our huge coal reserves, but would also provide for the export of both the coal and the associated technology.

I would be remiss, however, if I did not express my reservations about the large amounts of money and the great store of hope which are being devoted to this enterprise. We clearly are placing our faith in technology, which we must pray will not prove to be a false god. The great promise of synthetic fuels carries with it the danger that we may use them to the irreversible detriment of the air we breathe and the water we drink.

I have supported this legislation despite my own reservations and despite the anomalous opposition of both the environmental and business community to some of its aspects. The business community has opposed the use of Government-owned enterprises, fearing that they would be the first instance of Government ownership of energy enterprises generally. The environmentalists fear that the Government will assume risks that are unacceptable to business. Neither fears are justified.

Businesses need not fear Government encroachment, because the Government will only delve into areas which businesses have refused to enter. Environmentalists should welcome that action, because it may develop the technologies which are made more expensive because of their environmentally preferable aspects.

My reason for mentioning these particular fears is to point out that they can needlessly freeze our progress and forestall solutions to problems. A fearful nation cannot succeed, and a fearful people will tear itself apart. We cannot be governed by fear. We must try untried solutions. Therefore, we must proceed with the synthetic fuels program.

Mr. TALMADGE. Mr. President, the adoption by the Senate of the conference report on S. 932, the Energy Security Act, will represent a milestone in the Nation's efforts to achieve energy independence.

It was a privilege for me to serve as a member of the committee of conference, and I am delighted that the committee adopted the major

thrust of the agricultural, forestry, and rural energy bill (S. 1775) that I introduced last September. That bill, in modified form, was unanimously adopted by the Senate last November as title II of S. 932.

I ask unanimous consent that there be printed in the Record at the conclusion of my remarks a summary of the conference agreement on the biomass energy provisions in S. 932.

The adoption of the conference report on S. 932 will clear the way to get the Nation moving, at last, on all-out program to produce energy from renewable farm and forestry energy sources. This program can be implemented quickly. Scores of biomass energy production facilities can be in place in a relatively short time.

In my opinion, this program will provide the most economical and practical means for significantly increasing domestic energy production over the next few years while a large-scale synthetic fuels industry is being developed.

I consider the conference substitute a major breakthrough in assuring that the vast potential of biomass energy will be exploited to help meet the country's energy needs and end our dependence on imported oil.

S. 1775, and the amendment I offered to S. 932, were based on extensive hearings, held over the last 2 years by the Senate Committee on Agriculture, Nutrition, and Forestry, on the energy issue as it pertains to agriculture and rural United States. The testimony at these hearings was persuasive that small- and intermediate-scale production of alternative fuels from agricultural and forestry biomass offers one of the most practicable and least costly ways of filling the energy gap in rural United States created by the escalating costs and reduced availability of petroleum and natural gas. The technologies for the efficient production of alternative fuels from wood, grain, and other biomass materials are available now for onfarm and small- and intermediate-scale commercial application.

It was also pointed out during these hearings that methods to conserve the amount of energy used by farmers, rural residents, and rural communities are now available and can substantially reduce rural energy consumption.

What is urgently needed, it was learned through these hearings, is an effort by the Federal Government—using the efficient delivery system now in place—to provide the necessary applied research, technical know-how, and financial assistance in these areas. It is this need that title II of S. 932 is designed to serve. Under the conference substitute, the Department of Agriculture is to play a major role in affording financial assistance for the development of biomass energy. The Department of Energy is also to play a major role, and the conference substitute contains provisions to assure that there is close coordination between the two Departments.

While title II would provide authority for a comprehensive energy program for rural America, most of the programs are authorized only through fiscal year 1984 and are subject to the appropriations process. The necessary funding for the financial assistance to be made by the Secretaries of Agriculture and Energy for biomass energy projects will be accomplished by a transfer to them of spending authority in the energy security reserve, which Congress established last year. This

transfer must be made in an appropriations act, and I am confident that Congress will take the necessary action.

Energy independence for agriculture and forestry is of great importance to the Nation. A continuous and reasonably priced energy supply is vital to the production of food and fiber and the economic and social well-being of every citizen. In addition, the rapid development of agricultural biomass energy under title II can make a significant contribution in meeting our total energy needs and in stabilizing the farm economy.

I would like to take this opportunity to thank all the Senate and House conferees on S. 932 for their hard work and dedication in developing a workable compromise bill. As you are all aware, the conference committee has completed a massive task in sorting through and resolving the many differences between the House and the Senate versions of this important legislation.

I especially want to compliment Senator Johnston for his competent and effective leadership of the Senate conferees on S. 932. It is due, in no small measure, to his efforts, along with those of House Majority Leader Jim Wright, that Congress is now in a position to send S. 932 to the President for his signature.

Also, I wish to single out for thanks Chairman Foley of the House Agriculture Committee for his work on the biomass energy provisions of S. 932. His efforts were, I believe, invaluable in facilitating the development of title II of the conference substitute.

I urge all my colleagues to join me in supporting the conference report.

SUMMARY OF THE CONFERENCE AGREEMENT BIOMASS ENERGY PROVISIONS OF S. 932—THE ENERGY SECURITY ACT

I

S. 932, as passed by the Senate, contained authority for financial assistance for biomass energy projects in titles I, II, and III. Title I authorized the Synthetic Fuels Corporation to provide up to \$1 billion in financial assistance to biomass energy projects that are of a size offering "a significant potential" for achieving the national goal for production of synthetic fuel. Title II authorized the Department of Agriculture to provide up to approximately \$1 billion a year, through fiscal year 1984, in financial assistance to all types and sizes of biomass energy projects, provided that for projects producing more than one million gallons per year of alcohol (or equivalent of other forms of biomass energy), the Secretary of Agriculture would be required to obtain the concurrence of the Secretary of Energy. Title III authorized the Secretary of Energy to provide up to \$1.2 billion in financial assistance to all sizes of alcohol production facilities.

S. 932, as passed by the House, did not contain any provisions comparable to titles I, II, and III.

II

On May 14, at a meeting of the committee of conference on S. 932, the House offered a proposal concerning biomass energy in substitution for titles I, II, and III of the Senate bill. On May 20, the Senate offered a counterproposal amending the House proposal of May 14. The conferees agreed to the House proposal with the Senate changes. The conference substitute would:

- (1) Consolidate the biomass energy provisions of titles I, II, and III of S. 932 into title II, and establish a comprehensive biomass energy program for fiscal years 1981 through 1984 under title II.
- (2) Provide the Secretary of Agriculture with *exclusive* jurisdiction over all projects, except those involving the production of biomass energy from

municipal waste or aquatic plants, that produce less than 15 million gallons of ethanol per year (or equivalent of other forms of biomass energy).

(3) Provide the Secretary of Energy with *exclusive* jurisdiction over (a) all projects involving the production of biomass energy from municipal waste or aquatic plants and (b) all projects (except projects that use forestry feedstocks to produce biomass energy or projects that are owned and operated by agricultural cooperatives) that produce 15 million gallons or more of ethanol per year (or equivalent of other forms of biomass energy).

(4) Provide the Secretary of Agriculture and the Secretary of Energy with *shared* jurisdiction over projects that produce 15 million gallons or more of ethanol per year (or equivalent of other forms of biomass energy) *and* that use forestry feedstocks to produce biomass energy or that are owned and operated by agricultural cooperatives. For such projects, both the Secretary of Agriculture and the Secretary of Energy would be authorized to solicit proposals for and provide financial assistance to these projects, subject to the concurrence of the other Secretary. (The provisions setting forth the conditions and procedures for concurrence are similar to those for review of applications described in item (6).) The Secretary of Agriculture and the Secretary of Energy would be encouraged to develop joint projects from proposals that fit into this category.

(5) Require the Secretary of Agriculture and the Secretary of Energy, within six months after date of enactment of the bill, to prepare a comprehensive plan for maximizing biomass energy production and use. The plan would be designed to achieve an alcohol production level, to the maximum extent possible, of not less than 60,000 barrels per day by the end of 1982. The Secretary of Agriculture and the Secretary of Energy would also be required to jointly submit, by January 1, 1982, a comprehensive plan for the period 1983 through 1990 to (a) maximize biomass energy production and use, and (b) achieve an alcohol production level equal to not less than 10 percent of estimated gasoline consumption in 1990. This report would address the feasibility of reaching this goal.

(6) Require the Secretary of Energy to review Department projects for technical and national energy policy considerations, and require the Secretary of Agriculture to review all Department of Energy projects for national, regional, and local effects on agricultural supply, production, and use. Each Secretary would have 15 days in which to review the projects of the other Department. If concerns are raised within that 15-day period, both Secretaries would have an additional 30 days to resolve the issues raised. Following the consultation period, the Secretary providing assistance could proceed with the project. The Secretary of Agriculture and the Secretary of Energy could jointly establish categories of projects to which the consultation provisions shall not apply. Within 90 days after the date of enactment, the Secretaries would review potential categories and make an initial determination of exempted categories.

(7) Provide for the transfer of \$1,450,000,000 (for the two-year period beginning October 1, 1980, to the extent provided in advance in appropriations Acts) from the special fund established in the Treasury of the United States by Public Law 96-128 (designated the "Energy Security Reserve" and made available for obligation by such law only to the extent provided in advance in appropriations Acts) for financial assistance to biomass energy projects. Of such amount, \$600,000,000 would be available for biomass energy projects funded with financial assistance by the Secretary of Agriculture. Up to one-third of the amount of financial assistance provided by the Secretary of Agriculture would be for small-scale biomass energy projects (producing 1 million gallons or less of ethanol or energy equivalent per year). Also, \$600,000,000 would be available to the Secretary of Energy—of which at least \$500,000,000 would be made available to the Office of Alcohol Fuels for alcohol projects. Any amount not made available to the Office of Alcohol Fuels would be available to the Secretary of Energy for biomass energy production as authorized in title II or other existing authorities.

The remaining \$250,000,000 would be available to the Secretary of Energy for projects producing energy from municipal waste.

These funds would be available until expended. There would be no authorization provided at this time for appropriations for the second two year period of the program.

The Secretary of Agriculture and the Secretary of Energy could use this funding for guaranteed loans, price guarantees, and purchase agreements to stimulate the production of biomass energy.

The Secretary of Agriculture would also be authorized to make insured loans, but only in amounts not in excess of \$1 million per project, and only for projects having an annual production capacity of one million gallons or less of ethanol (or its equivalent of other forms of biomass energy). No insured loan could exceed 90 percent of the construction costs of the project (cost overruns—not exceeding 10 percent of initial cost estimates—would also be eligible for insured loan financing).

The Secretary of Agriculture and the Secretary of Energy would be authorized to guarantee loans for up to 90 percent of the construction costs of a project (up to 60 percent of any cost over-run would also be eligible for a loan guarantee). The Federal Financing Bank could not participate in any guaranteed loan transaction. [Note: The amount of financial assistance that may be provided to projects producing biomass energy from municipal waste are different, and the terms are not explained in this summary.]

Projects involving the combustion of wood either directly or indirectly, to produce biomass energy would be eligible for financial assistance (except for fireplaces, wood-burning stoves, and other related activities of a non-commercial nature).

Priority for financial assistance would be given to projects that (a) do not use petroleum or natural gas as the primary fuel in the production of biomass fuel or (b) that use new technologies or produce new forms of biomass energy. Projects meeting these criteria, however, would not be excluded from receiving financial assistance. Each biomass energy project receiving financial assistance under this title would have to have a positive net energy balance and a reasonable expectation that the feedstock used in the production of biomass energy would be available in the future.

In determining the amount of financial assistance for any biomass energy project that will yield byproducts, in addition to biomass energy, the Secretary must consider the potential value of such byproducts and the costs attributable to their production.

No financial assistance could be provided to any person for any biomass energy project if the Secretary finds that the process to be used by the project will not extract the protein content of the feedstock for use as food or feed for readily available markets in any case in which to do so would be technically and economically practicable.

(8) Give the President authority to alter the division of administrative responsibilities between the Department of Agriculture and the Department of Energy if he finds such action to be necessary to achieve the purposes of title II.

(9) Adopt statutory requirements to provide times certain for (1) solicitation guidelines (90 days after date of enactment of the bill); (2) first solicitation (30 days later); (3) receipt, evaluation, and awards for proposals (120 days after first solicitation) subject to availability of appropriations and the acceptability of the proposals; and (4) second solicitation (one year after first solicitation). These provisions would not apply to the extent either Department has existing procedures to process applications more expeditiously.

The Secretary of Agriculture and the Secretary of Energy would be expected, to the maximum extent practicable, to approve or disapprove any application for financial assistance within 120 days after receipt of the application.

(10) Make it clear that the authorities in title II will be in addition to, and not modify (except to the extent expressly provided for in the title), the authorities of the Secretary of Agriculture and the Secretary of Energy under other provisions of law.

(11) Provide authorization for appropriations of \$12 million per year to the Secretary of Agriculture for biomass energy research through fiscal year 1984, and \$10 million per year through fiscal year 1984 for the State cooperative extension services to provide educational programs for rural residents and producers of agricultural commodities and forest products concerning the production of biomass energy and the conservation of energy. The substitute would also authorize appropriations of up to \$5 million per

year through fiscal year 1984 for up to ten biomass energy production model demonstration facilities to exhibit the most recent technologies available for producing alcohol fuel and other forms of biomass energy.

(12) Delete the provisions in title II of the Senate bill that would provide for (a) new Farmers Home Administration loan programs for energy production and conservation; (b) a special rural electrification loan and grant program for producing electricity from nonfossil energy sources; (c) financial assistance to State foresters and expansion of the Forestry Incentives Program; and (d) a pilot loan program for small, private forest landowners to encourage better forest management for energy purposes. The substitute would not include a provision in title III of the Senate bill that would require the Secretary of Agriculture to sell excess sugar stocks for use in producing alcohol without regard to minimum price considerations.

(13) Provide for (a) a change in existing law to *require* the Secretary of Agriculture to permit crops that could be used in producing alcohol to be grown on set-aside or diverted acreage if certain conditions are met; (b) the burning of gasohol in motor vehicles owned or leased by the Federal Government when such fuel is available at reasonable prices and in sufficient quantities; (c) a study by the Secretary of Transportation to be completed within 9 months after enactment of the bill to determine (i) the need for legislation requiring that all *new* motor vehicles be capable of burning gasohol and (ii) the need for legislation to reduce technical or institutional barriers to widespread use of gasohol; (d) natural gas priorities for sugar refining for the production of alcohol, for agricultural production on set-aside or diverted acreage when such production is used for alcohol production, and (for the next 5 years) for the distillation of fuel-grade alcohol from biomass at existing production facilities that do not have the capability of lawfully using coal; and (e) authority for the President to allocate supplies of refined petroleum, if shortages exist, for blending with alcohol to make gasohol.

Mr. BAKER. Mr. President, I was pleased to see the Senate act so expeditiously today to approve the Energy Security Act of 1980.

And I wish to commend the Senator from Washington (Mr. Jackson), chairman of the Energy and Natural Resources Committee, the Senator from Oregon (Mr. Hatfield), ranking member of that committee, the Senator from Louisiana (Mr. Johnston), the Senator from Idaho (Mr. McClure), and the Senator from New Mexico (Mr. Domenici) on the thoughtful consideration they gave this measure and the prompt manner in which they brought it to the floor.

Our continuing dependence on foreign oil imports, the constant increases in the price of that oil, and the ever-present risk of another embargo make it imperative that this Nation move expeditiously to develop alternative fuel sources, particularly when we possess such vast quantities of raw materials from which these resources can be derived.

In all candor, Mr. President, I must note that I am less than overjoyed at the prospect of the Federal Government establishing the Synthetic Fuels Corporation and, perhaps, ultimately becoming directly involved in the development and production of synthetic fuels. I have long maintained that the Federal Government should not engage in such activities, historically the domain of private enterprise, which, I would add, has a much better record at such endeavors than does the Government.

Nonetheless, development of our vast supplies of shale and coal is of such critical importance to the future of this country that I support this effort to hasten that development.

Other areas of the legislation I find wholly acceptable, Mr. President.

Until we are able to generate sufficient synthetic fuels and other alternative sources of energy, it would be foolhardy indeed for the

United States not to take every safeguard to insure an adequate supply of oil. The filling of the strategic petroleum reserve will do much toward that end and I applaud the inclusion of this provision in the bill.

And there are many, many other aspects of the bill that I support—the home weatherization program, the energy conservation measures, the research in geothermal, solar, and renewable energy sources.

All of these are most worthy and long overdue advancements in our quest for energy independence, Mr. President.

By approving them, today, the Senate has acted in a most responsible fashion that will serve this Nation well for years to come.

Mr. HELMS. Mr. President, much time and a great deal of effort have been dedicated to what is now title II of S. 932. Frankly, there is much in this conference report which I cannot support. But, my endorsement of title II is unwaivering.

I believe the compromise concerning title II, adopted by the conferees, is a sound proposal that meets the important primary objective of providing a meaningful incentive for biomass energy development.

The manner in which jurisdiction is divided between the Departments of Energy and Agriculture is logical as well as equitable. Advantage is taken of the expertise each has developed and provision is made for cooperation between the Departments. It makes sense, for example, that USDA serve farmer cooperatives and that DOE work on the development of municipal waste.

And, perhaps, most important, is the financial assistance that will be available to farmers and small businessmen in the form of guaranteed and insured loans. This badly needed boost will serve as a shot in the arm to help America move toward meeting more of her energy needs with domestically produced fuels.

Mr. President, though thanks is due to many, the Senator from North Carolina takes this opportunity to express my admiration and gratitude for the tireless dedication that the Senator from Georgia (Mr. Talmadge) has given this legislation.

Mr. President, I was privileged to cosponsor with the Senator from Georgia the forerunner of title II—S. 1775—when it was introduced last August. Of course, under the able leadership of the Senator from Georgia, S. 1775 was reported from the Committee on Agriculture with every member of that committee cosponsoring the bill.

Then, for strategic reasons, it became advantageous to attach S. 1775 to this bill, S. 932. I was pleased to join the Senator from Georgia in the extensive negotiations that preceded that merger and be here on the floor with the Senator from Georgia when it was accepted as an amendment to the synfuels bill—thus becoming title II. And, as a member of the S. 932 conference committee, I know the Senator from Georgia's leadership was again critical in the progress on title II as that lengthy conference drug on.

Mr. President, these many hours of work on title II have yielded a fine product. And in turn, as title II is implemented and its effects are felt, I believe Americans will find that it too yields bountifully—in the production of domestic energy.

THE ACID RAIN TITLE OF THE SYNTHETIC FUELS CONFERENCE REPORT

Mr. MOYNIHAN. I am pleased to join my colleagues in supporting the conference report on S. 932 the synthetic fuels bill. This is a splendid effort, and one that I believe is our first serious step toward breaking our long-term dependence on foreign sources of oil. I commend my colleagues Senator Jackson, Senator Johnson and Senator Domenici for their valiant efforts on this bill.

I would like to take particular note of title VII which contains an acid rain proposal based upon the amendment I offered to the synthetic fuels bill last November. Title VII creates a Federal acid precipitation task force directed to carry out a 10-year program to address the acid rain problem. Designed to be the legislative underpinning of the acid rain program initiated by President Carter last August, this program would build upon the work of the existing Acid Rain Coordinating Committee within the administration.

Over its 10-year life it will coordinate and conduct our Federal effort to monitor acid rain and to carry out detailed research on its causes and effects. The task force will be responsible for an annual report to Congress, in which it will detail the results of its research and recommend to Congress actions that should be taken by various Government agencies and the Congress to alleviate acid precipitation and its effects. Five million dollars is authorized for the first year of this effort, and \$45 million is set as a limit for the remaining 9 years.

As a member of the Senate Environment and Public Works Committee, the committee of jurisdiction over environmental research programs including this program, I am particularly pleased that the conferees agreed to retain the acid rain title of S. 932. The Environment Committee has held several days of hearings on acid rain to date, documenting the degree to which acid rain has developed into a major national environmental problem.

In my own State of New York, for example, 91 lakes in the Adirondacks are known to be devoid of fish life as a result of increasing acidification, and hundreds of other lakes are threatened. But it is not only portions of the Northeast that are threatened by acid rain. The Boundary Waters Canoe Area in Minnesota and parts of the Rocky Mountains in Colorado are also known to be particularly vulnerable. Evidence has also been presented by such notable scientists as Gene Likens of Cornell University, Ellis Cowling of North Carolina State University, James Galloway of the University of Virginia and others, indicating that the acid rain problem is increasing not only in geographic scope, but is acidifying further in areas already affected.

It has also been made clear that much more research is needed on acid rain before we are fully able to understand that chemical and physical process that facilitate the long-term transport of sulfur and nitrogen oxides, their conversion to acids, and the particular pathways through which they damage lakes, plant-life and other resources. I would like to stress, however, that we do know enough to indicate that this is a major problem, and that action in the near future is warranted to control it. I therefore do not want this program interpreted by anyone as a means of delaying action on acid rain for 10 years. Rather, it is to be an ongoing effort, in the course of which we can begin to implement a solution.

Mr. President, I again commend the conferees for their efforts in presenting us this bill.

Mr. PERCY. Mr. President, the Energy Security Act represents an important step toward moving our Nation to a more secure energy future. This act attacks our energy problems from a number of different fronts. Title I establishes a program for the development of a synthetic fuel industry that will enable us to use our vast coal resources in an environmentally acceptable way. Increased coal utilization must be an important priority for the United States if we are to reduce our dangerous dependence on foreign energy sources; synthetic fuels production represents a means of directly substituting for imported oil.

The Energy Security Act goes well beyond the scope of developing a synthetic fuels industry, however. It also provides substantial incentives for equally-important approaches to solving our energy problems, including energy conservation and the use of renewable energy resources. These are the approaches that will, over the long-term, supply the vast majority of our energy needs, but in the near-term also, they can help to relieve the severity of our energy predicament. Energy conservation especially has a vast potential for supplying near-term benefits at relatively low costs. Various recent studies have discussed the potential of energy conservation; it has been determined that about 40 percent of the energy we consume is currently wasted.

The Energy Security Act will provide incentives for recovering some of this wasted energy. The act's solar energy and conservation bank, for example, will provide financing to encourage various residential energy-saving measures. In addition, the act will result in greater utility participation in residential energy conservation and also promote energy conservation in the industrial sector.

The Energy Security Act will also encourage greater utilization of renewable energy resources such as solar energy, alcohol fuels, geothermal energy, and municipal waste. The previously noted energy bank, for example, will encourage residential and commercial solar applications, and in so doing, will stimulate our domestic solar industry. Other provisions of the act will offer encouragement to our Nation's alcohol fuel industry. These could stimulate up to 60,000 barrels per day of alcohol fuel production from biomass within 3 years. This would provide a source of badly needed fuel to help relieve our reliance on oil imports.

Mr. President, in light of the many important benefits that the Energy Security Act will provide, I encourage the approval of this conference report and I look forward to the enactment of this legislation into law. I commend the Committee on Energy and Natural Resources on their outstanding work on this bill.

Mr. JOHNSTON. Mr. President, I believe the moment of truth has arrived. If my good friend from New Mexico is ready, we are ready to hear, we hope, the vote of progress for this Nation.

Mr. DOMENICI. I say to my good friend from Louisiana that I have been waiting for this day for many, many months.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the conference report.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. Culver), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Melcher) and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. Melcher) would vote "yea."

Mr. BAKER. I announce that the Senator from New York (Mr. Javits), the Senator from Alaska (Mr. Stevens), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

I further announce that, if present and voting, the Senator from Texas (Mr. Tower) would vote "nay."

The PRESIDING OFFICER (Mr. Mitchell). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 78, nays 12, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—78

Baker	Ford	Nunn
Baucus	Glenn	Packwood
Bayh	Hart	Pell
Bellmon	Hatfield	Percy
Bentsen	Hayakawa	Pressler
Biden	Heflin	Pryor
Boren	Heinz	Randolph
Bradley	Hollings	Ribicoff
Bumpers	Huddleston	Riegle
Burdick	Inouye	Roth
Byrd, Harry F., Jr.	Jackson	Sarbanes
Byrd, Robert C.	Johnston	Sasser
Cannon	Kassebaum	Schweiker
Chafee	Leahy	Simpson
Chiles	Levin	Stafford
Church	Long	Stennis
Cohen	Lugar	Stevenson
Cranston	Magnuson	Stewart
Danforth	Mathias	Stone
DeConcini	Matsunaga	Thurmond
Dole	McClure	Tsongas
Domenici	Metzenbaum	Wallop
Durenberger	Mitchell	Warner
Durkin	Morgan	Williams
Eagleton	Moynihan	Young
Exon	Nelson	Zorinsky

NAYS—12

Armstrong	Hatch	Laxalt
Boschwitz	Helms	Proxmire
Cochran	Humphrey	Schmitt
Garn	Jepsen	Welcker

NOT VOTING—10

Culver	Kennedy	Talmadge
Goldwater	McGovern	Tower
Gravel	Melcher	
Javits	Stevens	

So the conference report on S. 932 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

6. DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

[COMMITTEE PRINT]

AUGUST 20, 1980

THE DEFENSE PRODUCTION ACT OF 1950 ¹

(64 Stat. 798; 50 U.S.C. App. 2061 et seq.)

AN ACT To establish a system of priorities and allocations for materials and facilities, authorize the requisitioning thereof, provide financial assistance for expansion of productive capacity and supply, provide for price and wage stabilization, provide for the settlement of labor disputes, strengthen controls over credit, and by these measures facilitate the production of goods and services necessary for the national security, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles, may be cited as "the Defense Production Act of 1950." (50 U.S.C. App. 2061)

TABLE OF CONTENTS

Title I. Priorities and allocations.
Title II. Authority to requisition and condemn. ²
Title III. Expansion of productive capacity and supply.
Title IV. Price and wage stabilization. ³
Title V. Settlement of labor disputes. ³
Title VI. Control of consumer and real estate credit. ⁴
Title VII. General provisions.

DECLARATION OF POLICY

SEC. 2. In view of the present international situation and in order to provide for the national defense and national security, our mobilization effort continues to require some diversion of certain materials and facilities from civilian use to military and related purposes. It also requires the development of preparedness programs and the expansion of productive capacity and supply beyond the levels needed to meet the civilian demand, in order to reduce the time required for full mobilization in the event of an attack on the United States or to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which would adversely affect the national defense preparedness of the United States. In order to insure the national defense preparedness which is essential to national security, it is also

¹ The Defense Production Act of 1950 was originally enacted by Public Law 774, 81st Cong., 64 Stat. 798, Sept. 8, 1950, 50 U.S.C. App. Secs. 2061-2166. Legislation during the 1951-1980 period extending or amending the Defense Production Act of 1950 is listed after section 720 of this Act.

² Authority to condemn added July 31, 1951; title terminated at the close of June 30, 1953.

³ Authority terminated at the close of April 30, 1953.

⁴ Control of consumer credit terminated June 30, 1952. Control of real estate credit terminated at the close of June 30, 1953.

necessary and appropriate to assure domestic energy supplies for national defense needs.⁵

In order to insure productive capacity in the event of such an attack on the United States, it is the policy of the Congress to encourage the geographical dispersal of the industrial facilities of the United States in the interest of the national defense, and to discourage the concentration of such productive facilities within limited geographical areas which are vulnerable to attack by an enemy of the United States. In the construction of any Government-owned industrial facilities, in the rendition of any Government financial assistance for the construction, expansion, or improvement of any industrial facilities, and in the procurement of goods and services, under this or any other Act, each department and agency of the Executive Branch shall apply, under the coordination of the Office of Defense Mobilization, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of the geographical dispersal of such facilities in the interest of national defense. Nothing contained in this paragraph shall preclude the use of existing industrial facilities. (50 U.S.C. App. 2062)

TITLE I—PRIORITIES AND ALLOCATIONS

SEC. 101. (a) The President is hereby authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

(b) The powers granted in this section shall not be used to control the general distribution of any material in the civilian market unless the President finds (1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship.

(c)(1) Notwithstanding any other provision of this Act, the President may, by rule or order, require the allocation of, or the priority performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment in order to maximize domestic energy supplies if he makes the findings required by paragraph (3) of this subsection.

(2) The President shall report to the Congress within sixty days after the date of enactment of this subsection on the manner in which the authority contained in paragraph (1) will be adminis-

⁵ Public Law 96-294, the Energy Security Act of June 30, 1980, amended the "Declaration of Policy" by adding to the first paragraph the language beginning with the words "or to respond to actions occurring outside the United States" and continuing through the remainder of the first paragraph.

tered. This report shall include the manner in which allocations will be made, the procedure for requests and appeals, the criteria for determining priorities as between competing requests, and the office or agency which will administer such authorities.

(3) The authority granted in this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials and equipment in the marketplace, unless the President finds that—

(A) such supplies are scarce, critical, and essential to maintain or further (i) exploration, production, refining, transportation, or (ii) the conservation of energy supplies, or (iii) for the construction and maintenance of energy facilities; and

(B) maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection.

(4) During any period when the authority conferred by this subsection is being exercised, the President shall take such action as may be appropriate to assure that such authority is being exercised in a manner which assures the coordinated administration of such authority with any priorities or allocations established under subsection (a) of this section and in effect during the same period. (50 U.S.C. App. 2071)⁶

SEC. 102. In order to prevent hoarding, no person shall accumulate (1) in excess of the reasonable demands of business, personal, or home consumption, or (2) for the purpose of resale at prices in excess of prevailing market prices, materials which have been designated by the President as scarce materials or materials the supply of which would be threatened by such accumulation. The President shall order published in the Federal Register, and in such other manner as he may deem appropriate, every designation of materials the accumulation of which is unlawful and any withdrawal of such designation. In making such designations the President may prescribe such conditions with respect to the accumulation of materials in excess of the reasonable demands of business, personal, or home consumption as he deems necessary to carry out the objectives of this Act. This section shall not be construed to limit the authority contained in sections 101 and 704 of this Act. (50 U.S.C. App. 2072)

SEC. 103. Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this title or any rule, regulation, or order thereunder, shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both. (50 U.S.C. App. 2073)

⁶ Subsection (c) of sec. 101 was added by Public Law 94-163, the Energy Policy and Conservation Act of Dec. 22, 1975, sec. 104(a), 89 Stat. 878. Sec. 104(b) of Public Law 94-163 provided further:

"(1) The authority to issue any rules or orders under section 101(c) of the Defense Production Act of 1950, as amended by this Act, shall expire at midnight December 31, 1984, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to such date.

"(2) The expiration of the Defense Production Act of 1950 or any amendment of such Act: or the date of enactment of this Act shall not affect the authority of the President under sec. 101(c) of such Act, as amended by subsection (a) of this section and in effect on the date of enactment of this Act, unless Congress by law expressly provides to the contrary".

SEC. 104. [The authority contained in this section was added by the Defense Production Act Amendments of 1951, 65 Stat. 132, July 31, 1951. The authority was terminated at the close of June 30, 1953, by section 11 of the Defense Production Act Amendments of 1953, 67 Stat. 131, June 30, 1953.] (50 U.S.C. App. 2074)

SEC. 105. Nothing in this Act shall be construed to authorize the President to institute, without the approval of the Congress, a program for the rationing of gasoline among classes of end-users. (50 U.S.C. App. 2075)⁷

SEC. 106. For purposes of this Act, "energy" shall be designated as a "strategic and critical material" after the date of the enactment of this section: Provided, That no provision of this Act shall, by virtue of such designation—

(1) grant any new direct or indirect authority to the President for the mandatory allocation or pricing of any fuel or feedstock (including, but not limited to, crude oil, residual fuel oil, any refined petroleum product, natural gas, or coal) or electricity or any other form of energy; or

(2) grant any new direct or indirect authority to the President to engage in the production of energy in any manner whatsoever (such as oil and gas exploration and development, or any energy facility construction), except as expressly provided in sections 305 and 306 for synthetic fuel production. (50 U.S.C. App. 2076)⁷

TITLE II—AUTHORITY TO REQUISITION AND CONDEMN

[The authority to condemn was added by section 102 of the Defense Production Act Amendments of 1951, 65 Stat. 132-133, July 31, 1951. The title was terminated at the close of June 30, 1953, by section 11 of the Defense Production Act Amendments of 1953, 67 Stat. 131, June 30, 1953.] (50 U.S.C. App. 2081)

TITLE III—EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

SEC. 301. (a)(1) In order to expedite production and deliveries or services under Government contracts, the President may authorize, subject to such regulations as he may prescribe, the Department of Defense, the Department of Energy,⁸ the Department of Commerce, and such other agencies of the United States engaged in procurement for the national defense as he may designate (hereinafter referred to as "guaranteeing agencies"), without regard to provisions of law relating to the making, performance, amendment, or modification of contracts, to guarantee in whole or in part any public or private financing institution (including any Federal Reserve bank), by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount or advance, or on any commitment in connection therewith, which may be made by such financing institution for

⁷ Section added by Public Law 96-294, the Energy Security Act of June 30, 1980.

⁸ Public Law 96-294, the Energy Security Act of June 30, 1980, amended section 301 by deleting the Departments of the Army, Navy and Air Force, and adding the Departments of Defense and Energy.

the purpose of financing any contractor, subcontractor, or other person in connection with the performance of any contract or other operation deemed by the guaranteeing agency to be necessary to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense, or for the purpose of financing any contractor, subcontractor, or other person in connection with or in contemplation of the termination, in the interest of the United States, of any contract made for the national defense; but no small-business concern (as defined in section 714(a)(1) of this Act) shall be held ineligible for the issuance of such a guaranty by reason of alternative sources of supply.

(2) Except as provided in section 305 and section 306, no authority contained in section 301, 302, or 303 may be used in any manner—

- (A) in the development, production, or distribution of synthetic fuel;
- (B) for any synthetic fuel project;
- (C) to assist any person for the purpose of providing goods or services to a synthetic fuel project; or
- (D) to provide any assistance to any person for the purchase of synthetic fuel.⁹

(b) Any Federal agency or any Federal Reserve bank, when designated by the President, is hereby authorized to act, on behalf of any guaranteeing agency, as fiscal agent of the United States in the making of such contracts of guarantee and in otherwise carrying out the purposes of this section. All such funds as may be necessary to enable any such fiscal agent to carry out any guarantee made by it on behalf of any guaranteeing agency shall be supplied and disbursed by or under authority from such guaranteeing agency. No such fiscal agent shall have any responsibility or accountability except as agent in taking any action pursuant to or under authority of the provisions of this section. Each such fiscal agent shall be reimbursed by each guaranteeing agency for all expenses and losses incurred by such fiscal agent in acting as agent on behalf of such guaranteeing agency, including among such expenses, notwithstanding any other provision of law, attorneys' fees and expenses of litigation.

(c) All actions and operations of such fiscal agents under authority of or pursuant to this section shall be subject to the supervision of the President, and to such regulations as he may prescribe; and the President is authorized to prescribe, either specifically or by maximum limits or otherwise, rates of interest, guarantee and commitment fees, and other charges which may be made in connection with loans, discounts, advances, or commitments guaranteed by the guaranteeing agencies through such fiscal agents, and to prescribe regulations governing the forms and procedures (which shall be uniform to the extent practicable) to be utilized in connection with such guarantees.

(d) Each guaranteeing agency is hereby authorized to use for the purposes of this section any funds which have heretofore been appropriated or allocated or which hereafter may be appropriated or allocated to it, or which are or may become available to it, for such

⁹ Section 301(a)(2) was added by Public Law 96-294, the Energy Security Act of June 30, 1980.

purposes or for the purpose of meeting the necessities of the national defense.

(e) (1) (A) Except as provided in subparagraph (B), the maximum obligation of any guaranteeing agency under any loan, discount, advance, or commitment in connection therewith, entered into under this section shall not exceed \$38,000,000.

(B) Guarantees which exceed the amount specified in subparagraph (A) may be entered into under this section only if the Committees on Armed Services of the Senate and the House of Representatives have been notified in writing of such proposed obligation and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such committees and neither House of Congress has adopted, within such 60-day period, a resolution disapproving such obligation. For purposes of this subparagraph, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 60-day period.¹⁰

(2) The authority conferred by this section shall not be used primarily to prevent the financial insolvency or bankruptcy of any person, unless

(A) the President certifies that the insolvency or bankruptcy would have a direct and substantially adverse effect upon defense production; and

(B) a copy of such certification, together with a detailed justification thereof, is transmitted to the Congress and to the Committees on Banking and Currency of the respective Houses at least ten days prior to the exercise of that authority for such use. (50 U.S.C. App. 2091)

SEC. 302. To expedite production and deliveries or services to aid in carrying out Government contracts for the procurement of materials or the performance of services for the national defense, the President may make provisions for loans (including participations, or guarantees of, loans) to private business enterprises (including research corporations not organized for profit) for the expansion of capacity, the development of technological processes, or the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals, and manufacture of newsprint. Such loans may be made without regard to the limitations of existing law and on such terms and conditions as the President deems necessary, except that (1) financial assistance may be extended only to the extent that it is not otherwise available on reasonable terms and (2) no such loan may be made in an amount in excess of \$48,000,000 unless the Committees on Armed Services of the Senate and the House of Representatives have been notified in writing of such proposed loan and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such Committees and neither House of Congress has adopted, within such 60-day period, a resolution disapproving such loan. For purposes of this section, the continuity of

¹⁰ Public Law 96-294, the Energy Security Act of June 30, 1980, amended section 301(e) by deleting the requirement of an affirmative Act of Congress for any loan guarantee exceeding the maximum amount specified in the subsection and substituting the one-House veto procedure contained in section 301(e)(1)(B).

a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 60-day period. (50 U.S.C. App. 2092)

Sec. 303. (a) To assist in carrying out the objectives of this Act, the President may make provision (1) for purchases of or commitments to purchase metals, minerals, and other materials, for Government use or resale; and (2) for the encouragement of exploration, development, and mining of critical and strategic minerals, metals, and materials: *Provided, however,* That purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced except insofar as such domestically produced supply may be purchased for resale for industrial use or stockpiling, and no commodity purchased under this subsection shall be sold at less than the established ceiling price for such commodity (except that minerals, metals, and materials shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower), or, if no ceiling price has been established, the higher of the following: (i) The current domestic market price for such commodity, or (ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation as provided in section 407 of Public Law 430, 81st Congress: *Provided further, however,* That no purchase or commitment to purchase any imported agricultural commodity shall be made calling for delivery more than one year after the expiration of this act.¹¹

(b) Subject to the limitations in subsection (a), purchases and commitments to purchase and sales under such subsection may be made without regard to the limitations of existing law, for such quantities, and on such terms and conditions, including advance payments, and for such periods, but not extending beyond September 30, 1995, as the President deems necessary, except that purchases or commitments to purchase involving higher than established ceiling prices (or if there be no established ceiling prices, currently prevailing market prices) or anticipated loss on resale shall not be made unless it is determined that supply of the materials could not be effectively increased at lower prices or on terms more favorable to the Government, or that such purchases are necessary to assure the availability to the United States of overseas supplies.¹²

(c) If the President finds—

(1) that under generally fair and equitable ceiling prices, for any raw or nonprocessed material, there will result a decrease in supplies from high-cost sources of such material, and that the continuation of such supplies is necessary to carry out the objectives of the act; or

(2) that an increase in cost of transportation is temporary in character and threatens to impair maximum production or supply in any area at stable prices of any materials,

¹¹ Public Law 96-294, the Energy Security Act of June 30, 1980, amended section 303(a) by adding the word "materials" after the words "minerals, metals" where they appear in the subsection.

¹² Public Law 96-294, the Energy Security Act of June 30, 1980, extended the period for purchases and commitments to purchase and sales under the provisions of section 303 from September 30, 1985, to September 30, 1995.

he may make provision for subsidy payments on any such domestically produced material other than an agricultural commodity in such amounts and in such manner (including purchases of such material and its resale at a loss without regard to the limitations of existing law), and on such terms and conditions, as he determines to be necessary to insure that supplies from such high-cost sources are continued, or that maximum production or supply in such area at stable prices of such materials is maintained as the case may be.

(d) The procurement power granted to the President by this section shall include the power to transport and store and have processed and refined any materials procured under this section.

(e) When in his judgment it will aid the national defense the President is authorized to install additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the United States Government, and to install Government owned equipment in plants, factories, and other industrial facilities owned by private persons.

(f) Notwithstanding any other provision of law to the contrary, metals, minerals, and materials acquired pursuant to the provisions of this section which, in the judgment of the President, are excess to the needs of programs under this act, shall be transferred to the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.) when the President deems such action to be in the public interest. Transfers made pursuant to this subsection shall be made without charge against or reimbursement from funds appropriated for the purposes of such Act, except that costs incident to such transfer other than acquisition costs shall be paid or reimbursed from such funds, and the acquisition costs of such metals, minerals, and materials transferred shall be deemed to be net losses incurred by the transferring agency and the notes payable issued to the Secretary of the Treasury representing the amounts thereof shall be canceled. Upon the cancellation of any such notes the aggregate amount of borrowing which may be outstanding at any one time under section 304(b) of this act, as amended, shall be reduced in an amount equal to the amount of any notes so canceled.¹³

(g) When in his judgement it will aid the national defense, the President may make provision for the development of substitutes for strategic and critical materials. (50 U.S.C. App. 2093)¹⁴

SEC. 304. (a) For the purposes of sections 302 and 303, the President is hereby authorized to utilize such existing departments, agencies, officials, or corporations of the Government as he may deem appropriate, or to create new agencies (other than corporations).

(b) The Secretary of the Treasury is authorized and directed to cancel the outstanding balance of all unpaid notes issued to the Secretary of the Treasury pursuant to this section, together with interest accrued and unpaid on such notes.

¹³ Section 303(f) was amended by Public Law 96-41, July 30, 1979, section 3(c), 96 Stat. 325, the Strategic and Critical Materials Stock Piling Revision Act of 1979, to conform section 303(f) to provisions of the 1979 Act.

¹⁴ Section 303(g) was amended by Public Law 96-294, the Energy Security Act of June 30, 1979, deleting the requirement of a certification by the Secretary of Agriculture or the Secretary of the Interior that a particular strategic and critical material is likely to be in short time of war or other national emergency.

(c) Any cash balance remaining on June 30, 1974, in the borrowing authority previously authorized by this section, and any funds thereafter received on transactions heretofore or hereafter entered into pursuant to sections 302 and 303 shall be covered into the Treasury as miscellaneous receipts.¹⁸

Sec. 305. (a)(1)(A) Subject to subsection (k)(1), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act (other than sections 101(a), 101(b), 301, 302, 303, and 306), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

(B) The President shall exercise the authority granted by this section—

- (i) in consultation with the Secretary of Energy;
- (ii) through the Department of Defense and any other Federal department or agency designated by the President; and
- (iii) consistent with an orderly transition to the separate authorities established pursuant to the United States Synthetic Fuels Corporation Act of 1980.

(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

(b)(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (c) and (d), shall—

- (i) contract for purchases of, or commitments to purchase, synthetic fuel for Government use for defense needs;
- (ii) subject to paragraph (3), issue guarantees in accordance with the provisions of section 301, except that the provisions of section 301(e)(1)(B) shall not apply with respect to such guarantees; and
- (iii) subject to paragraph (3), make loans in accordance with the provisions of section 302, except that the provisions of section 302(2) shall not apply with respect to such loans.

(2)(A) Except as provided in subparagraph (B) assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

(B) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

(3) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 or section 302 in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

¹⁸Public Law 93-426, Sept. 30, 1974, sec. 2(a), 88 Stat. 1166-1167, repealed the borrowing authority previously authorized by sec. 304 and added subsections (b) and (c).

§305(c)

DEFENSE PRODUCTION ACT OF 1950

(c)(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (b) may be made—

(A) without regard to the limitations of existing law (other than the limitations contained in this Act) regarding the procurement of goods or services by the Government; and

(B) subject to section 717(a), for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

(2) Purchases or commitments to purchase under subsection (b) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

(d)(1) Except as provided in paragraph (2), any purchase of or commitment to purchase synthetic fuel under subsection (b) shall be made by solicitation of sealed competitive bids.

(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may negotiate contracts for such purchases and commitments to purchase.

(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

(4)(A)(i) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (A)(ii), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

(ii) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase or commitment to purchase of more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, all be considered to be a synthetic fuel action.

(B) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

(C) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract.

(5) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose pursuant to the authorizations contained in sections 711(a)(2) and 711(a)(3), an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price.

(6) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

(e) The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

(f)(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (d)(5), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2) shall be sold in accordance with applicable Federal law.

(g)(1) Any contract under this section including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

(2) For the purpose of determining the maximum liability under any contract under paragraph (1)—

(A) loans shall be valued at the initial face value of the loan;

(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract; and

(D) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, or purchase agreement shall be valued in accordance with the applicable preceding subparagraph.

(3) If more than one form of assistance is provided under this section to any synthetic fuel project, then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

(h) For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

(i) All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40.

Nothing in this section shall—

) affect the jurisdiction of the States and the United States waters of any stream or over any ground water resource;

(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or

(C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

(k)(1) Subject to paragraph (2), the authority of the President to enter into any new contract or commitment under this section shall cease to be effective on the date on which the President determines that the United States Synthetic Fuels Corporation is established and fully operational consistent with the provisions of the United States Synthetic Fuels Corporation Act of 1980.

(2) Contracts entered into under this section before the date specified in paragraph (1) may be renewed and extended by the President after the date specified in paragraph (1) but only to the extent that Congress has specifically appropriated funds for such renewals and extensions.^{16, 17}

SEC. 306. (a)(1) At any time after the date of the enactment of this section, the President may, subject to paragraph (2), invoke the authorities provided under this section upon making all the following determinations and transmitting a report to the Congress regarding such determinations:

(A) a national energy supply shortage has resulted or is likely to result in a shortfall of petroleum supplies in the United States, and such shortage is expected to persist for a period of time sufficient to seriously threaten the adequacy of defense fuel supplies essential to direct defense and direct defense industrial base programs;

(B) the continued adequacy of such supplies cannot be assured and requires expedited production of synthetic fuel to provide such defense fuel supplies;

(C) the expedited production of synthetic fuel to provide such defense fuel supplies will not be accomplished in a timely manner by the United States Synthetic Fuels Corporation; and

(D) the exercise of the authorities provided under subsection (c) is necessary to provide for the expedited production of synthetic fuel to provide such defense fuel supplies.

(2)(A) Any transmittal under paragraph (1) shall contain a determination by the President regarding the extent of the anticipated shortage of petroleum supplies. If the President determines that such shortage is greater than 25 percent, the authorities invoked by the President under this section shall be effective on the date on which the report required under paragraph (1) is transmitted to the Congress.

(B) If the President determines that such shortage is less than 25 percent, the transmittal under paragraph (1) shall be made in accordance with section 307 and the authorities under this section shall be effective only as provided under such section. For purposes of section 307, any determination to invoke authorities under this

¹⁶ Sections 305, 306, 307, and 308 were added by the Energy Security Act of June 30, 1980, 104.

¹⁷ Section 106 of Public Law 96-294, the Energy Security Act of June 30, 1980, requires an annual report by the President to the Congress on actions taken under sections 305, 306, 307, and 308.

section, notice of which is transmitted to the Congress under this subsection, shall be considered to be a synthetic fuel action.

(3) No court shall have the authority to review any determination made by the President under this subsection.

(b)(1)(A) Subject to the requirements of subsection (a), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act (other than sections 101(a), 101(b), 301, 302, 303, and 305), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

(B) The President shall exercise the authority granted by this section—

(i) in consultation with the Secretary of Energy; and

(ii) through the Department of Defense and any other Federal department or agency designated by the President.

(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

(c)(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (d) and (e), shall—

(i) contract for purchases of or commitments to purchase synthetic fuel for Government use for defense needs;

(ii) subject to paragraph (4), issue guarantees in accordance with the provisions of section 301, except that the provisions of section 301(e)(1)(B) shall not apply with respect to such guarantees;

(iii) subject to paragraph (4), make loans in accordance with the provisions of section 302, except that the provisions of section 302(2) shall not apply with respect to such loans;

(iv) have the authority to require fuel suppliers to provide synthetic fuel in any case in which the President deems it practicable and necessary to meet the national defense needs of the United States. Nothing in this paragraph shall be intended to provide authority for the President to require fuel suppliers to produce synthetic fuel if such suppliers are not already producing synthetic fuel or do not intend to produce synthetic fuel;

(v) have the authority to install additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the Government, and to install Government-owned equipment in plants, factories, and other industrial facilities owned by private persons; and

(vi) have the authority to undertake Government synthetic fuel projects in accordance with the provisions of paragraph (2).

(B)(i) Except as provided in clause (ii), assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

(ii) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

(2)(A) The Government, acting through the President, is authorized to own Government synthetic fuel projects. In any case in which the Government owns a Government synthetic fuel project,

the Government shall contract for the construction and operation of such project.

(B) The authority of the Government pursuant to subparagraph (A) to own and contract for the construction and operation of any Government synthetic fuel project shall include, among other things, the authority to—

(i) subject to subparagraph (C), take delivery of synthetic fuel from such project; and

(ii) transport and store and have processed and refined such synthetic fuel.

(C) Any synthetic fuel which the Government takes delivery of from a Government synthetic fuel project shall be disposed of in accordance with subsection (g).

(D) To the maximum extent feasible, the President shall utilize the private sector for the activities associated with this paragraph.

(3)(A) Except as provided in subparagraph (B), any contract for the construction or operation of a Government synthetic fuel project shall be made by solicitation of sealed competitive bids.

(B) In any case in which no such bids are submitted to the President or the President determines that no such bids have been submitted which are acceptable to the President, the President may negotiate contracts for such construction and operation.

(4) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 or section 302 in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

(5) Before the President may utilize any specific authority described under paragraph (1), the President shall transmit to the Congress a statement containing a certification that the determinations made by the President in the transmittal to the Congress under subsection (a)(1) are still valid at the time of the transmittal of such certification.

(6)(A) No authority contained in paragraphs (1)(A)(i) through (1)(A)(iv) may be utilized by the President unless the use of such authority has been authorized by the Congress in an Act hereinafter enacted by the Congress.

(B) The President may not utilize any authority under paragraph (1)(A)(v) or paragraph (1)(A)(vi) unless the proposed exercise of authority has been specifically authorized on a project-by-project basis in an Act hereinafter enacted by the Congress and funds have been specifically appropriated by the Congress for purposes of exercising such authority.

(d)(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (c) may be made—

(A) without regard to the limitations of existing law (other than those limitations contained in this Act) regarding the procurement of goods or services by the Government; and

(B) subject to section 717(a), for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

(2) Purchases or commitments to purchase under subsection (c) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

(e)(1) Except as provided in paragraph (2), any purchase or commitment to purchase synthetic fuel under subsection (c) shall be made by solicitation of sealed competitive bids.

(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may negotiate contracts for such purchases and commitments to purchase.

(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

(4)(A) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (B), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

(B) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase of or commitment to purchase more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

(5) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United

(6) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract.

(7) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose, an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price.

(8) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

(f) The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

(g)(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (e)(7), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2), shall be sold in accordance with applicable Federal law.

(h)(1) Any contract under this section, including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

(2) For the purpose of determining the maximum liability under any contract under paragraph (1)—

(A) loans shall be valued at the initial face value of the loan;

(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract;

(D) contracts for activities under subsection (c)(1)(A)(v) shall be valued at the initial face value of such contract;

(E) Government synthetic fuel projects pursuant to subsection (c)(1)(A)(vi) shall be valued at the current estimated cost to the Government, as determined annually by the President; and

(F) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, purchase agreement, contract for activities under subsection (c)(1)(A)(v), or Government synthetic fuel project pursuant to subsection (c)(1)(A)(vi) shall be valued in accordance with the applicable preceding subparagraph.

(3) If more than one form of assistance is provided under this section to any synthetic fuel project then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

(i) For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section, shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

(j) All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained on such synthetic fuel project. With respect to the labor standards provided in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Number 14 of 1950 and section 276(c) of title 40.

(k)(1) Nothing in this section shall—

- (A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;
- (B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any State; or
- (C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

(l) Renewals and extensions of contracts entered into under this section shall be made only to the extent that Congress has specifically appropriated funds for such renewals and extensions, unless the President certifies that the determinations under section 306(a)(1) remain in effect for purposes of the use of such authority.

Sac. 307. (a) For purposes of this section, the term "synthetic fuel action" means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) The President shall transmit any synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any synthetic fuel action is received by the appropriate officers of each House, such synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

(c)(1) Except as provided in paragraph (2) and in subsection (e), if a synthetic fuel action is transmitted to both Houses of Congress, such synthetic fuel action shall take effect at the end of the first period of 30 calendar days of continuous session of the Congress after the date on which such synthetic fuel action is received by such Houses, unless between the date on which such synthetic fuel action is received and the end of such 30 calendar day period, either House passes a resolution stating in substance that such House does not favor such action.

(2) A synthetic fuel action described in paragraph (1) may take effect prior to the expiration of the 30-calendar-day period after the date on which such action is received, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such synthetic fuel action. Except as provided in subsection (e), in any such case, such synthetic fuel action shall take effect on the date on which such resolution is approved.

(d) For purposes of subsection (c)—

- (1) continuity of session is broken only by an adjournment of the Congress sine die; and
- (2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period.

(e) Under provisions contained in a synthetic fuel action, any provision of such synthetic fuel action may take effect on a date later than the date on which such synthetic fuel action would take effect, if such action is not disapproved, pursuant to provisions of this section.

(f) This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(g)(1) For purposes of subsection (b), the term "resolution" means a resolution of either House of the Congress described in paragraph (2) or paragraph (3).

(2) A resolution the matter after the resolving clause of which is as follows: "That the _____ does not object to the synthetic fuel action numbered _____ received by the Congress on _____, 19 ____", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

(3) A resolution the matter after the resolving clause of which is as follows: "That the _____ does not favor the synthetic fuel action numbered _____ received by the Congress on _____, 19 ____", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

(4) A resolution once introduced with respect to a synthetic fuel action shall immediately be referred to a committee (and all resolutions with respect to the same synthetic fuel action shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(5)(A) If the committee to which a resolution with respect to a synthetic fuel action has been referred has not reported it at the end of 20 calendar days after it was received by the House involved, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such synthetic fuel action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same synthetic fuel action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same synthetic fuel action.

(6)(A) When the committee has reported (or has been discharged from further consideration of) a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to, except that it shall be in order—

(i) to offer an amendment in the nature of a substitute, consisting of the text of the resolution described in paragraph (2) with respect to a synthetic fuel action, for a resolution described in paragraph (3) with respect to the same synthetic fuel action; or

(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (3) with respect to a synthetic fuel action, for a resolution described in paragraph (2) with respect to the same such synthetic fuel action.

(C) The amendments described in clauses (i) and (ii) of subparagraph (B) shall not be amendable and shall be debatable under the 5-minute rule in the House of Representatives by the offering of pro forma amendments.

(7)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(8) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a synthetic fuel action, then a motion to recommit shall not be in order nor shall it be in order to consider in that House any other resolution with respect to the same synthetic fuel action.

Sec. 308. (a) For purposes of this Act, the term "Government synthetic fuel project" means a synthetic fuel project undertaken in accordance with the provisions of section 306(c).

(b)(1)(A) For purposes of this Act, the term "synthetic fuel" means any solid, liquid, or gas, or combination thereof, which can be used as a substitute for petroleum or natural gas (or any derivatives thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of domestic sources of—

(i) coal, including lignite and peat;

(ii) shale;

(iii) tar sands, including those heavy oil resources

(I) the cost and the technical and economic risks make extraction and processing of a heavy oil resource uneconomical under applicable pricing and tax policies; and

(II) the costs and risks are comparable to those associated with shale, coal, and tar sand resources (other than heavy oil) qualifying for assistance under section 305 or section 306; and

(iv) water, as a source of hydrogen only through electrolysis.

(B) Such term includes mixtures of coal and combustible liquids, including petroleum.

(C) Such term does not include solids, liquids, or gases, or combinations thereof, derived from biomass, which includes timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter.

(2)(A) For purposes of this Act, the term "synthetic fuel project" means any facility using an integrated process or processes at a specific geographic location in the United States for the purpose of commercial production of synthetic fuel. The project may include only—

(i) the facility, including the equipment, plant, machinery, supplies, and other materials associated with the facility, which converts the domestic resource to synthetic fuel;

(ii) the land and mineral rights required directly for use in connection with the facilities for the production of synthetic fuels;

(iii) any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion;

(I) which—

(aa) is co-located with the conversion facility or is located in the immediate vicinity of the conversion facility; or

(bb) if not co-located or located in the immediate vicinity, is incidental to the project (except in the event of a coal mine where no other reasonable source of coal is available to the project); and

(II) which is necessary to the project; and

(iv) any transportation facility, electric powerplant, electric transmission line or other facility—

(I) which is for the exclusive use of the project;

(II) which is incidental to the project; and

(III) which is necessary to the project, except that transportation facilities used to transport synthetic fuel away from the project shall be used exclusively to transport synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

(B)(i) Such term may also include a project which will result in the replacement of a significant amount of oil and is—

(I) used solely for the production of a mixture of coal and combustible liquids, including petroleum, for direct use as a fuel, but shall not include—

(aa) any mineral right; or

(bb) any facility or equipment for extraction of any mineral;

DEFENSE PRODUCTION ACT OF 1950

§701

(II) used solely for the commercial production of hydrogen from water through electrolysis; and

(III) a magnetohydrodynamic topping cycle used solely for the commercial production of electricity.

(ii) Such a synthetic fuel project using magnetohydrodynamic technology shall only be eligible for guarantees under section 305 or section 306.

(C) For purposes of this paragraph—

(i) the term “exclusive” means for the sole use of the project, except that an incidental by-product might be used for other purposes;

(ii) the term “incidental” means a relatively small portion of the total project cost; and

(iii) the term “necessary” means an integrated part of the project taking into account considerations of economy and efficiency of operation.

(c) For purposes of section 305 and section 306, the term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

TITLE IV—PRICE AND WAGE STABILIZATION

[This title terminated at the close of April 30, 1953, by section 121(b) of the Defense Production Act Amendments of 1952, 66 Stat. 306, June 30, 1952.] (50 U.S.C. App. 2101-2112)

TITLE V—SETTLEMENT OF LABOR DISPUTES

[This title terminated at the close of April 30, 1953, by section 121(b) of the Defense Production Act Amendments of 1952, 66 Stat. 306, June 30, 1952.] (50 U.S.C. App. 2121-2123)

TITLE VI—CONTROL OF CONSUMER AND REAL ESTATE CREDIT

[The authority for the control of consumer credit terminated June 30, 1952, by section 116(a) of the Defense Production Act Amendments of 1952, 66 Stat. 305, June 30, 1952.]

[The authority for the control of real estate credit terminated at the close of June 30, 1953, by section 11 of the Defense Production Act Amendments of 1953, 67 Stat. 131, June 30, 1953.] (50 U.S.C. App. 2131-2137)

TITLE VII—GENERAL PROVISIONS

SEC. 701. (a) It is the sense of the Congress that small-business enterprises be encouraged to make the greatest possible contribution toward achieving the objectives of this Act.

(b) In order to carry out this policy—

(i) the President shall provide small-business enterprises with full information concerning the provisions of this Act relating to, or of benefit to, such enterprises and concerning t

activities of the various departments and agencies under this Act;

(ii) such business advisory committees shall be appointed, as shall be appropriate for purposes of consultation in the formulation of rules, regulations, or orders, or amendments thereto issued under authority of this Act, and in their formation there shall be fair representation for independent small, for medium, and for large business enterprises, for different geographical areas, for trade association members and non-members, and for different segments of the industry;

(iii) in administering this Act, such exemptions shall be provided for small-business enterprises as may be feasible without impeding the accomplishment of the objectives of this Act; and

(iv) in administering this Act, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small-business enterprises.

(c) Whenever the President invokes the powers given him in this Act to allocate any material in the civilian market, he shall do so in such a manner as to make available, so far as practicable, for business and various segments thereof in the normal channel of distribution of such material, a fair share of the available civilian supply based, so far as practicable, on the share received by such business under normal conditions during a representative period preceding any future allocation of materials: *Provided*, That the President shall, in the allocation of materials in the civilian market, give due consideration to the needs of new concerns and newly acquired operations, undue hardships of individual businesses, and the needs of smaller concerns in an industry.

(d) In order to further the objectives and purposes of this section, the Office of Defense Mobilization is directed to investigate the distribution of defense contracts with particular reference to the share of such contracts which has gone and is now going to small business, either directly or by subcontract; to review the policies, procedures, and administrative arrangements now being followed in order to increase participation by small business in the mobilization program; to explore all practical ways, whether by amendments to laws, policies, regulations, or administrative arrangements, or otherwise, to increase the share of defense procurement going to small business; to get from the departments and agencies engaged in procurement, and from other appropriate agencies including the Small Business Administration, their views and recommendations on ways to increase the share of procurements going to small business; and to make a report to the President and the Congress, not later than six months after the enactment of the Defense Production Act Amendments of 1980, which report shall contain the following: (i) a full statement of the steps taken by the Office of Defense Mobilization in making investigations required by this subsection; (ii) the findings of the Office of Defense Mobilization with respect to the share of procurement which has gone and is now going to small business; (iii) a full and complete statement of the actions taken by the Office of Defense Mobilization and other agencies to increase such small business share; (iv) a full and complete statement of the recommendations made by the procurement agencies and other agencies consulted by the Office of Defense Mobilization; and (v) specific recommendations by the Office of Defense Mo-

bilization for further action to increase the share of procurement going to small business. (50 U.S.C. App. 2151)¹⁸

SEC. 702. As used in this Act—

(a) The word "person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing: *Provided*, That no punishment provided by this Act shall apply to the United States, or to any such government, political subdivision, or government agency.

(b) The word "materials" shall include raw materials, articles, commodities, products, supplies, components, technical information, and processes.

(c) The word "facilities" shall not include farms, churches or other places of worship, or private dwelling houses.

(d) The term "national defense" means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.

(e) The words "wages, salaries, and other compensation" shall include all forms of remuneration to employees by their employers for personal services, including, but not limited to, vacation and holiday payments, night shift and other bonuses, incentive payments, year-end bonuses, employer contributions to or payments of insurance or welfare benefits, employer contributions to a pension fund or annuity, payments in kind, and premium overtime payments.

(f) The term "defense contractor" means any person who enters into a contract with the United States for the production of material or the performance of services for the national defense. (50 U.S.C. App. 2152)

SEC. 703. (a) Except as otherwise specifically provided, the President may delegate any power or authority conferred upon him by this Act to any officer or agency of the Government, including any new agency or agencies (and the President is hereby authorized to create such new agencies, other than corporate agencies, as he deems necessary), and he may authorize such redelegations by that officer or agency as the President may deem appropriate. The President is authorized to appoint heads and assistant heads of any such new agencies, and other officials therein of comparable status, and to fix their compensation, without regard to the Classification Act of 1949, as amended, the head of one such agency to be paid at a rate comparable to the compensation paid to the heads of executive departments of the Government and other such heads, assistant heads, and officials at rates comparable to the compensation paid to the heads and assistant heads of independent offices of the Government. Any officer or agency may employ civilian personnel for duty in the United States, including the District of Columbia, or elsewhere, without regard to section 14 of the Federal Employees Pay Act of 1946 (60 Stat. 219) as the President necessary to carry out the provisions of this Act.

¹⁸ Public Law 96-294, the Energy Security Act of June 30, 1980, sec. 701(d) to require a report pursuant to the provisions of the subsection no. . . after the date of the enactment of the Energy Security Act.

(b) The head and assistant heads of any independent agency created to administer the authority conferred by title IV of this Act shall be appointed by the President, by and with the advice and consent of the Senate. There shall be included among the policy-making officers of each regional office administering the authority conferred by title IV of this Act a resident of each State served by such office whose Governor requests such representation. (50 U.S.C. App. 2153)

SEC. 704. The President may make such rules, regulations, and orders as he deems necessary or appropriate to carry out the provisions of the Act. Any regulation or order under this Act may be established in such form and manner, may contain such classification and differentiations, and may provide for such adjustments and reasonable exceptions as in the judgment of the President are necessary or proper to effectuate the purposes of this Act, or to prevent circumvention or evasion, or to facilitate enforcement of this Act, or any rule, regulation, or order issued under this Act. No rule, regulation, or order issued under this Act which restricts the use of natural gas (either directly or by restricting the use of facilities for the consumption of natural gas, or in any other manner) shall apply in any State in which a public regulatory agency has authority to restrict the use of natural gas and certifies to the President that it is exercising that authority to the extent necessary to accomplish the objectives of this Act. (50 U.S.C. App. 2154)

SEC. 705. (a) The President shall be entitled, while this Act is in effect and for a period of two years thereafter, by regulation, subpoena, or otherwise, to obtain such information from, require such reports and the keeping of such records by, make such inspection of the books, records, and other writings, premises or property of, and take the sworn testimony of, and administer oaths and affirmations to, any person as may be necessary or appropriate, in his discretion, to the enforcement or the administration of this Act and the regulations or orders issued thereunder. The President shall issue regulations insuring that the authority of this subsection will be utilized only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority, and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency. In case of contumacy by, or refusal to obey a subpoena served upon, any person referred to in this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the President, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) [Repealed by section 251 of the Organized Crime Control Act of 1970 (84 Stat. 931; P.L. 91-452).]

(c) The production of a person's books, records, or other documentary evidence shall not be required at any place other than the place where such person usually keeps them, if prior to the return date specified in the regulations, subpoena, or other document issued with respect thereto, such person furnishes the President with a true copy of such books, records, or other documentary evidence (certified by such person under oath to be a true and correct

copy) or enters into a stipulation with the President as to the information contained in such books, records, or other documentary evidence. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(d) Any person who willfully performs any act prohibited or willfully fails to perform any act required by the above provisions of this section, or any rule, regulation, or order thereunder, shall upon conviction be fined not more than \$1,000 or imprisoned for not more than one year or both.

(e) Information obtained under this section which the President deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the President determines that the withholding thereof is contrary to the interest of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than \$10,000, or imprisoned for not more than one year, or both.

All information obtained by the Office of Price Stabilization under this section 705, as amended, and not made public prior to April 30, 1953, shall be deemed confidential and shall not be published or disclosed, either to the public or to another Federal agency except the Congress or any duly authorized committee thereof, and except the Department of Justice for such use as it may deem necessary in the performance of its functions, unless the President determines that the withholding thereof is contrary to the interests of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(f) Any person subpoenaed under this section shall have the right to make a record of his testimony and to be represented by counsel. (50 U.S.C. App. 2155)

SEC. 706. (a) Whenever in the judgment of the President any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, he may make application to the appropriate court for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, and upon a showing by the President that such person has engaged or is about to engage in any such acts or practices a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted without bond.

(b) The district courts of the United States and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction of violations of this Act or any rule, regulation, order, or subpoena thereunder, and of all civil actions under this Act to enforce any liability or duty created by, or to enjoin any violation of, this Act or any rule, regulation, order, or subpoena thereunder. Any criminal proceeding on account of any such violation may be brought in any district in which any act, failure to act, or transaction constituting the violation occurred. Any such civil action may be brought in any such district or in the district in which the defendant resides or transacts business. Process in such cases, criminal or civil, may be served in any district wherein the defendant resides or transacts business or wherever the defendant may be found; the subpoena for witnesses who are re-

quired to attend a court in any district in such case may run into any other district. The termination of the authority granted in any title or section of this Act, or of any rule, regulation, or order issued thereunder, shall not operate to defeat any suit, action, or prosecution, whether theretofore or thereafter commenced, with respect to any right, liability, or offense incurred or committed prior to the termination date of such title or of such rule, regulation, or order. No costs shall be assessed against the United States in any proceeding under this Act. All litigation arising under this Act or the regulations promulgated thereunder shall be under the supervision and control of the Attorney General. (50 U.S.C. App. 2156)

SEC. 707. No person shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with a rule, regulation, or order issued pursuant to this Act notwithstanding that any such rule, regulation, or order shall thereafter be declared by judicial or other competent authority to be invalid. No person shall discriminate against orders or contracts to which priority is assigned or for which materials or facilities are allocated under title I of this Act or under any rule, regulation, or order issued thereunder, by charging higher prices or by imposing different terms and conditions for such orders or contracts than for other generally comparable orders or contracts, on in any other manner. (50 U.S.C. App. 2157)

SEC. 708.¹⁹ (a) Except as specifically provided in subsection (j) of this section and subsection (j) of section 708A, no provision of this Act shall be deemed to convey to any person any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section and section 708A the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.);

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.);

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

¹⁹ Public Law 94-152, Dec. 16, 1975, sec. 3, 89 Stat. 810, revised sec. 708 and added sec. 708A effective "on the one hundred and twentieth day beginning after" Dec. 16, 1975 (Public Law 94-152, sec. 9, 89 Stat. 821), Sec. 4 of Public Law 94-152 (89 Stat. 820) provided further:

"(a) Any voluntary agreement—

"(1) entered into under section 708 of the Defense Production Act of 1950 prior to the effective date of this Act, and

"(2) in effect immediately prior to such date

may continue in effect (except as otherwise provided in section 708A(o) of the Defense Production Act of 1950, as amended by this Act) and shall be carried out in accordance with such section 708, as amended by this Act, and such section 708A.

"(b) No provision of the Defense Production Act of 1950, as amended by this Act, shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred (1) prior to the date of enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of the Defense Production Act of 1950, or (3) subsequent to the expiration or repeal of the Defense Production Act of 1950.

"(c) Effective on the date of enactment of this Act, the immunity conferred by section 708 or 708A of the Defense Production Act of 1950, as amended by this Act, shall not apply to any action taken or authorized to be taken by or under the Emergency Petroleum Allocation Act of 1971."

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9);

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a); and

(6) the Act entitled "An Act to promote export trade and for other purposes", approved April 10, 1918 (15 U.S.C. 61-65).

(c)(1) Except as otherwise provided in section 708A(o), upon finding that conditions exist which may pose a direct threat to the national defense or its preparedness programs, the President may consult with representatives of industry, business, financing, agriculture, labor, and other interests in order to provide for the making by such persons, with the approval of the President, of voluntary agreements to help provide for the defense of the United States through the development of preparedness programs and the expansion of productive capacity and supply beyond levels needed to meet essential civilian demand in the United States.

(2) The authority granted to the President in paragraph (1) and subsection (d) may be delegated by him (A) to individuals who are appointed by and with the advice and consent of the Senate, or are holding offices to which they have been appointed by and with the advice and consent of the Senate, (B) upon the condition that such individuals consult with the Attorney General and with the Federal Trade Commission not less than ten days before consulting with any persons under paragraph (1), and (C) upon the condition that such individuals obtain the prior approval of the Attorney General, after consultation by the Attorney General with the Federal Trade Commission, to consult under paragraph (1). For the purpose of carrying out the objectives of title I of this Act, the authority granted in paragraph (1) of this subsection shall not be delegated to more than one individual.

(d)(1) To achieve the objectives of subsection (c)(1) of this section, the President or any individual designated pursuant to subsection (c)(2) may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirement specified in this section, any such advisory committee shall be subject to the provisions of the Federal Advisory Committee Act, whether or not such Act or any of its provisions expire or terminate during the term of this Act or of such committees, and in all cases such advisory committees shall be chaired by a Federal employee (other than an individual employed pursuant to section 3109 of title 5, United States Code) and shall include representatives of the public, and the meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(2) A full and complete verbatim transcript shall be kept of such advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of section 552(b)(1) and (b)(3) of title 5, United States Code.

(e)(1) The individual or individuals referred to in subsection (c)(2) shall, after approval of the Attorney General, after consultation by the Attorney General with the Chairman of the Federal Trade Commission, promulgate rules, in accordance with section 553 of title 5, United States Code, incorporating standards and procedures by which voluntary agreements may be developed and carried out.

(2) In addition to the requirements of section 553 of title 5, United States Code—

(A) general notice of the proposed rulemaking referred to in paragraph (1) shall be published in the Federal Register, and such notice shall include—

(i) a statement of the time, place, and nature of the proposed rulemaking proceedings;

(ii) reference to the legal authority under which the rule is being proposed; and

(iii) either the terms of substance of the proposed rule or a description of the subjects and issues involved;

(B) the required publication of a rule shall be made not less than thirty days before its effective date; and

(C) the individual or individuals referred to in paragraph (1) shall give interested persons the right to petition for the issuance, amendment, or repeal of a rule.

(3) The rules promulgated pursuant to this subsection incorporating standards and procedures by which voluntary agreements may be developed shall provide, among other things, that—

(A) such agreements shall be developed at meetings which include—

(i) the Attorney General or his delegate,

(ii) the Chairman of the Federal Trade Commission or his delegate, and

(iii) an individual designated by the President in subsection (c)(2) or his delegate,

and which are chaired by the individual referred to in clause (iii);

(B) at least seven days prior to any such meeting, notice of the time, place, and nature of the meeting shall be published in the Federal Register;

(C) interested persons may submit written data and views concerning the proposed voluntary agreement, with or without opportunity for oral presentation;

(D) interested persons may attend any such meeting unless the individual designated by the President in subsection (c)(2) finds that the matter or matters to be discussed at such meeting falls within the purview of matters described in subsection (b)(1) or (b)(3) of section 552 of title 5, United States Code;

(E) a full and verbatim transcript shall be made of any such meeting and shall be transmitted by the chairman of the meeting to the Attorney General and to the Chairman of the Federal Trade Commission;

(F) any voluntary agreement resulting from the meetings shall be transmitted by the chairman of the meetings to the Attorney General and to the Chairman of the Federal Trade Commission; and

(G) any transcript referred to in subparagraph (E) and any voluntary agreement referred to in subparagraph (F) shall be

available for public inspection and copying, subject to subsections (b)(1) and (b)(3) of section 552 of title 5, United States Code.

(f)(1) A voluntary agreement may not become effective unless and until—

(A) the individual referred to in subsection (c)(2) who is to administer the agreement approves it and certifies, in writing, that the agreement is necessary to carry out the purposes of subsection (c)(1); and

(B) the Attorney General (after consultation with the Chairman of the Federal Trade Commission) finds, in writing, that such purpose may not reasonably be achieved through a voluntary agreement having less anticompetitive effects or without any voluntary agreement.

(2) Each voluntary agreement which becomes effective under paragraph (1) shall expire two years after the date it becomes effective (and at two-year intervals thereafter, as the case may be), unless (immediately prior to such expiration date) the individual referred to in subsection (c)(2) who administers the agreement and the Attorney General (after consultation with the Chairman of the Federal Trade Commission) make the certification or finding, as the case may be, described in paragraph (1) with respect to such voluntary agreement, in which case, the voluntary agreement may be extended for an additional period of two years.

(g) The Attorney General and the Chairman of the Federal Trade Commission shall monitor the carrying out of any voluntary agreement to assure—

(1) that the agreement is carrying out the purposes of subsection (c)(1);

(2) that the agreement is being carried out under rules promulgated pursuant to subsection (e);

(3) that the participants are acting in accordance with the terms of the agreement; and

(4) the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(h) The rules promulgated under subsection (e) with respect to the carrying out of voluntary agreements shall provide—

(1) for the maintenance, by participants in any voluntary agreement, of documents, minutes of meetings, transcripts, records, and other data related to the carrying out of any voluntary agreement;

(2) that participants in any voluntary agreement agree, in writing, to make available to the individual designated by the President in subsection (c)(2) to administer the voluntary agreement, the Attorney General and the Chairman of the Federal Trade Commission for inspection and copying at reasonable times and upon reasonable notice any item maintained pursuant to paragraph (1);

(3) that any item made available to the individual designated by the President in subsection (c)(2) to administer the voluntary agreement, the Attorney General, or the Chairman of the Federal Trade Commission pursuant to paragraph (2) shall be available from such individual, the Attorney General, or the Chairman of the Federal Trade Commission, as the case

maybe, for public inspection and copying, subject to subsections (b)(1) and (b)(3) of section 552 of title 5, United States Code;

(4) that the individual designated by the President in subsection (c)(2) to administer the voluntary agreement, the Attorney General, and the Chairman of the Federal Trade Commission, or their delegates, may attend meetings to carry out any voluntary agreement;

(5) that a Federal employee (other than an individual employed pursuant to section 3109 of title 5 of the United States Code) shall attend meetings to carry out any voluntary agreement;

(6) that participants in any voluntary agreement provide the individual designated by the President in subsection (c)(2) to administer the voluntary agreement, the Attorney General, and the Chairman of the Federal Trade Commission with adequate prior notice of the time, place, and nature of any meeting to be held to carry out the voluntary agreement;

(7) for the attendance by interested persons of any meeting held to carry out any voluntary agreement, unless the individual designated by the President in subsection (c)(2) to administer the voluntary agreement finds that the matter or matters to be discussed at such meeting falls within the purview of matters described in subsection (b)(1) or (b)(3) of section 552 of title 5, United States Code;

(8) that the individual designated by the President in subsection (c)(2) to administer the voluntary agreement has published in the Federal Register prior notification of the time, place, and nature of any meeting held to carry out any voluntary agreement, unless he finds that the matter or matters to be discussed at such meeting falls within the purview of matters described in subsection (b)(1) or (b)(3) of section 552 of title 5, United States Code, in which case, notification of the time, place, and nature of such meeting shall be published in the Federal Register within ten days of the date of such meeting;

(9) that—

(A) the Attorney General (after consultation with the Chairman of the Federal Trade Commission and the individual designated by the President in subsection (c)(2) to administer a voluntary agreement), or

(B) the individual designated by the President in subsection (c)(2) to administer a voluntary agreement (after consultation with the Attorney General and the Chairman of the Federal Trade Commission),

may terminate or modify, in writing, the voluntary agreement at any time, and that effective, immediately upon such termination or modification, any antitrust immunity conferred upon the participants in the voluntary agreement by subsection (j) shall not apply to any act or omission occurring after the time of such termination or modification; and

(10) that participants in any voluntary agreement be reasonably representative of the appropriate industry or segment of such industry.

(i) The Attorney General and the Chairman of the Federal Trade Commission shall each promulgate such rules as each deems neces-

DEFENSE PRODUCTION ACT OF 1950

§708A

sary or appropriate to carry out his responsibility under this section.

(j) There shall be available as a defense for any person to any civil or criminal action brought for violation of the antitrust laws (or any similar law of any State) with respect to any act or omission to act to develop or carry out any voluntary agreement under this section that—

(1) such act or omission to act was taken in good faith by that person—

(A) in the course of developing a voluntary agreement under this section, or

(B) to carry out a voluntary agreement under this section; and

(2) such person fully complied with this section and the rules promulgated hereunder, and acted in accordance with the terms of the voluntary agreement.

(k) The Attorney General and the Federal Trade Commission shall each make surveys for the purpose of determining any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of the administration of this section. Such surveys shall include studies of the voluntary agreements authorized by this section. The Attorney General shall (after consultation with the Federal Trade Commission) submit to the Congress and the President at least once every year reports setting forth the results of such studies of voluntary agreements.

(l) The individual or individuals designated by the President in subsection (c)(2) shall submit to the Congress and the President at least once every year reports describing each voluntary agreement in effect and its contribution to achievement of the purpose of subsection (c)(1).

(m) On complaint, the United States District Court for the District of Columbia shall have jurisdiction to enjoin any exemption or suspension pursuant to subsections (d)(2), (e)(3) (D) and (G), and (h) (3), (7), and (8), and to order the production of transcripts, agreements, items, or other records maintained pursuant to this section by the Attorney General, the Federal Trade Commission or any individual designated under subsection (c)(2), where the court determines that such transcripts, agreements, items, or other records have been improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such transcripts, agreements, items, or other records in camera to determine whether such transcripts, agreements, items, or other records or any parts thereof shall be withheld under any of the exemption or suspension provisions referred to in this subsection, and the burden is on the Attorney General, the Federal Trade Commission, or such designated individual, as the case may be, to sustain its action. (50 U.S.C. App. 2158)

SEC. 708A. (a) Except as specifically provided in subsection (j) of this section and section 708(j) of this Act, no provision of this Act shall be deemed to convey to any person any immunity from civil or criminal liability, or to create defenses to actions, ^{the} antitrust laws.

(b) As used in this section—

(1) The term "international energy supply emergency" means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international agreement is required by chapters III and IV of such program, and (B) ending on a date on which he determines such allocation is no longer required. Such a period may not exceed ninety days, but the President may establish one or more additional periods by making the determination under clause (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

(2) The term "international agreement" means the Agreement on an International Energy Program, signed by the United States on November 18, 1974.

(3) The term "Administrator" means the Administrator of the Federal Energy Administration.

(4) The term "petroleum products" means—

(A) crude oil,

(B) natural gas liquids and other liquids produced in association with crude oil or natural gas,

(C) refined petroleum products, including but not limited to gasoline, kerosene, distillates, residual fuel oil, refined lubricating oil, and liquefied petroleum gases; and

(D) blending agents and additives used in conjunction with crude oil and refined petroleum products.

(c) The requirements of this section shall be the sole procedures applicable to the development or implementation of voluntary agreements or plans of action to accomplish the objectives of the international agreement with respect to international allocation of petroleum products and the information system provided in such agreement, and to the availability of immunity from the antitrust laws respecting the development or implementation of such voluntary agreements or plans of action.

(d)(1) To achieve the purposes of the international agreement with respect to international allocation of petroleum products and the information system provided in such agreement, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirements specified in this section, such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act and section 17 of the Federal Energy Administration Act of 1974, whether or not such Acts or any provisions thereof expire or terminate during the term of this Act or of such committees, and, in all cases, such advisory committees shall be chaired by a Federal employee (other than an individual employed pursuant to section 3109 of title 5, United States Code) and shall include representatives of the public, and the meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(2) A full and complete verbatim transcript shall be kept of such advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and

agreement shall be made available for public inspection and copying, subject to the provisions of sections 552 (b)(1) and (b)(3) of title 5, United States Code.

(3) For the purposes of this section, the provisions of subsection (a) of section 17 of the Federal Energy Administration Act of 1974 shall apply to any board, task force, commission, committee, or similar group, not composed entirely of full-time Federal employees (other than individuals employed pursuant to section 3109 of title 5, United States Code) established or utilized to advise the United States Government with respect to the development or implementation of any agreement or plan of action under the international agreement.

(e) The Administrator, subject to the approval of the Attorney General, after both of them have consulted with the Federal Trade Commission and the Secretary of State, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing petroleum products may develop and implement voluntary agreements and plans of action which are required to implement the provisions of the international agreement which relate to international allocation of petroleum products and the information system provided in such agreement.

(f) The standards and procedures under subsection (e) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1)(A) Meetings held to develop or implement a voluntary agreement or plan of action under this section shall permit attendance by interested persons, including all interested segments of the petroleum industry, consumers, committees of Congress, and the public, shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, committees of Congress, and (except during an international energy supply emergency) to the public, and shall be initiated and chaired by a Federal employee other than an individual employed pursuant to section 3109 of title 5, United States Code; except that (i) meetings of bodies created by the International Energy Agency established by the international agreement need not be open to interested persons and need not be initiated and chaired by a Federal employee, and (ii) the Administrator, in consultation with the Secretary of State and the Attorney General, may determine that a meeting held to implement or carry out an agreement or plan of action shall not be public and that attendance may be limited, subject to reasonable representation of affected segments of the petroleum industry (as determined by the Administrator, after consultation with the Attorney General) if he finds that a wider disclosure would be detrimental to the foreign policy interests of the United States.

(B) No meetings may be held to develop or implement a voluntary agreement or plan of action under this section, unless a Federal employee other than an individual employed pursuant to section 3109 of title 5, United States Code, is present; except that during an international energy supply emergency, a meeting to implement such an agreement or plan of action may be

held outside the presence of such an employee (and need not be initiated or chaired by such an employee) if prior consent is granted by the Administrator and the Attorney General. The Administrator and the Attorney General shall each make a written record of the granting of any such prior consent.

(2) Interested persons permitted to attend such a meeting shall be afforded an opportunity to present in writing and orally, data, views, and arguments at such meetings.

(3) A verbatim transcript or, if keeping a verbatim transcript is not practicable, full and complete notes or minutes shall be kept of any meeting held or communications made to develop or implement a voluntary agreement or plan of action under this section, between or among persons who are parties to such a voluntary agreement, or with respect to meetings held or communications made to develop a voluntary agreement; except that, during any international energy supply emergency, in lieu of minutes or a transcript, a log may be kept containing a notation of the parties to, and subject matter of, any such communication (other than in the course of such a meeting). Such minutes, notes, transcript, or log shall be deposited, together with any agreement resulting therefrom, with the Administrator, and shall be available to the Attorney General and the Federal Trade Commission. Such minutes, notes, transcripts, logs, and agreements shall be available for public inspection and copying, except as otherwise provided in section 552 (b)(1) and (b)(3) of title 5, United States Code, or pursuant to a determination by the Administrator, in consultation with the Secretary of State and the Attorney General, that such disclosure would be detrimental to the foreign policy interests of the United States.

No provision of this section may be exercised so as to prevent committees of Congress from attending meetings to which this subsection applies, or from having access to any transcripts or minutes of such meetings, or logs of communication.

(g) Subject to the prior approval of the Attorney General and the Federal Trade Commission, the Administrator may suspend the application of—

(1) sections 10 and 11 of the Federal Advisory Committee Act,

(2) subsections (b) and (c) of section 17 of the Federal Energy Administration Act of 1974,

(3) the requirement under subsection (d)(1) of this section that meetings be open to the public; and

(4) the second sentence of subsection (d)(2) of this section;

if the Administrator determines in each instance that such suspension is essential to the implementation of the international agreement as it relates to the international allocation of petroleum products or the information system provided in such agreement and if the Secretary of State determines that the application of such provisions would be detrimental to the foreign policy interests of the United States. Such determinations by the Administrator and the Secretary of State shall be in writing, shall set forth, to the extent possible consistent with the need to protect the security of classified national defense and foreign policy information, a detailed explanation of reasons justifying the granting of such suspension, and

shall be published in the Federal Register at a reasonable time prior to the effective date of any such suspension.

(h)(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in any meeting to develop or implement voluntary agreements authorized under this section and, when practicable, in any meeting to implement plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this section. A voluntary agreement or plan of action under this section may not be implemented unless approved by the Attorney General, after consultation with the Federal Trade Commission. Prior to the expiration of the period determined under paragraph (2), the Federal Trade Commission shall transmit to the Attorney General its views as to whether such an agreement should be approved, and shall publish such views in the Federal Register. The Attorney General, in consultation with the Federal Trade Commission, the Secretary of State, and the Administrator, shall have the right to review, amend, modify, disapprove, or revoke, on his own motion or upon the request of the Federal Trade Commission or any interested person, any voluntary agreement or plan of action at any time, and, if revoked, thereby withdraw prospectively the immunity which may be conferred by subsection (j) of this section.

(2) Any voluntary agreement entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission twenty days before being implemented (where it shall be made available for public inspection and copying subject to the provisions of subsection (g) of this section); except that during an international energy supply emergency, the Administrator, subject to approval of the Attorney General, may reduce such twenty-day period. Any action taken pursuant to such voluntary agreement or plan of action shall be reported to the Attorney General and the Federal Trade Commission pursuant to such regulations as shall be prescribed under subsections (i)(3) and (i)(4).

(i)(1) The Attorney General and the Federal Trade Commission shall monitor the development and implementation of voluntary agreements and plans of action authorized under this section to assure the protection and fostering of competition and to prevent anticompetitive practices and effect.

(2) In addition to any requirements specified under subsections (e) and (f) of this section and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Administrator, shall promulgate regulations concerning the maintenance of necessary and appropriate records related to the development and implementation of voluntary agreements and plans of action pursuant to this section.

(3) Persons developing and implementing voluntary agreements or plans of action pursuant to this section shall maintain those records required by such regulations. Both the Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and places and upon reasonable notice.

(4) The Attorney General and the Federal Trade Commission may each prescribe pursuant to section 553 of title 5, United States

Code, such rules and regulations as may be necessary or appropriate to carry out their respective responsibilities under this section. They may both utilize for such purposes and for purposes of enforcement any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws, the Antitrust Procedures and Penalties Act, or the Antitrust Civil Process Act; and wherever any such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this section.

(j)(1) There shall be available as a defense for any person to any civil or criminal action brought for violation of the antitrust laws (or any similar law of any State) with respect to any act or omission to act to develop or carry out any voluntary agreement under this section that—

(A) such act or omission to act was taken in good faith by that person—

(i) in the course of developing a voluntary agreement under this section, or

(ii) to carry out a voluntary agreement under this section; and

(B) such person fully complied with this section and the rules promulgated hereunder, and acted in accordance with the terms of the voluntary agreement.

(2) In any action in any Federal or State court for breach of contract there shall be available as a defense that the alleged breach of contract was caused solely by action taken during an international energy supply emergency in accordance with a voluntary agreement authorized and approved under the provisions of this section.

(k) No provision of this section shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred (1) prior to the date of enactment of this section, (2) outside the scope and purpose or not in compliance with the terms and conditions of this section, or (3) subsequent to the expiration or repeal of this section or Act.

(l)(1) The Administrator, after consultation with the Secretary of State, shall report annually to the President and the Congress on the performance under voluntary agreements or plans of action to accomplish the objectives of the international agreement with respect to international allocation of petroleum products and the information system provided in such agreement.

(2) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, reports on the impact on competition and on small business of actions authorized by this section.

(m) The authorities contained in this section with respect to the executive agreement, commonly known as the Agreement on an International Energy Program dated November 18, 1974, and referred to in this section as the international energy agreement, shall not be construed in any way as advice and consent, ratification, endorsement, or any other form of congressional approval of the specific terms of such executive agreement or any related

annex, protocol, amendment, modification, or other agreement which has been or may in the future be entered into.

(n) Any action or agreement undertaken or entered into pursuant to this section shall be deemed to be undertaken or entered into in the United States.

(o) If S. 622, Ninety-fourth Congress (the Energy Policy and Conservation Act) is enacted, then (effective on the effective date of the provisions of S. 622 which relate to international voluntary agreements to carry out the International Energy Program) this section and section 708 shall not be applicable to (1) any voluntary agreement or plan of action developed or implemented to carry out obligations of the United States under the international agreement, or (2) any voluntary agreement or plan of action which relates to petroleum products and which is developed, in whole or in part, to carry out the purposes of a treaty or executive agreement to which the United States is a party or to implement a program of international cooperation between the United States and one or more foreign countries. (50 U.S.C. App. 2158a)²⁰

SEC. 709. The functions exercised under this Act shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of section 3 thereof. Any rule, regulation, or order, or amendment thereto, issued under authority of this Act shall be accompanied by a statement that in the formulation thereof there has been consultation with industry representatives, including trade association representatives, and that consideration has been given to their recommendations, or that special circumstances have rendered such consultation impracticable or contrary to the interest of the national defense, but no such rule, regulation, or order shall be invalid by reason of any subsequent finding by judicial or other authority that such a statement is inaccurate. (50 U.S.C. App. 2159)

SEC. 710. (a) [Subsec. (a) was repealed by section 12(c)(1) of the Federal Employees Salary Increase Act of 1955, 69 Stat. 180, June 28, 1955.]

(b)(1) The President is further authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act and subject to such regulations as he may issue, to employ persons of outstanding experience and ability without compensation.

(2) The President shall be guided in the exercise of the authority provided in this subsection by the following policies:

(i) So far as possible, operations under the Act shall be carried on by full-time salaried employees of the Government, and appointments under this authority shall be to advisory or consultative positions only.

²⁰ Public Law 94-163 (S. 622, 94th Congress), Energy Policy and Conservation Act of Dec. 22, 1975, sec. 252(h), 89th Stat. 897, provided:

"Upon the expiration of the 90-day period which begins on the date of enactment of this Act, the provisions of sections 708 and 708A (other than 708A(o) of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out (1) the international energy program, or (2) any allocation, price control, or similar program with respect to petroleum products under this Act or under the Emergency Petroleum Allocation Act of 1973. For purposes of section 708A(o) of the Defense Production Act of 1950, the effective date of the provisions of this Act which relate to international voluntary agreements to carry out the International Energy Program shall be deemed to be 90 days after the date of enactment of this Act."

(ii) Appointments to positions other than advisory or consultative may be made under this authority only when the requirements of the positions are such that the incumbent must personally possess outstanding experience and ability not obtainable on a full-time, salaried basis.

(iii) In the appointment of personnel and in assignment of their duties, the head of the department or agency involved shall take steps to avoid, to as great an extent as possible, any conflict between the governmental duties and the private interests of such personnel.

(iv) Appointees under this subsection (b) shall when policy matters are involved, be limited to advising appropriate full-time salaried Government officials who are responsible for making policy decisions.

(4) Any person employed under this subsection (b) is hereby exempted, with respect to such employment, from the operation of sections 281, 283, 284, 434, and 1914 of title 18, United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99),²¹ except that

(i) exemption hereunder shall not extend to the negotiation or execution, by such appointee, of Government contracts with the private employer of such appointee or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

(ii) exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, made by the private employer of the appointee or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

(iii) exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the appointee had any responsibility during his employment under this subsection, during the period of such employment and the further period of two years after the termination of such employment; and

(iv) exemption hereunder shall not extend to the receipt or payment of salary in connection with the appointee's Government service hereunder from any source other than the private employer of the appointee at the time of his appointment hereunder.

(5) Appointments under this subsection (b) shall be supported by written certification by the head of the employing department or agency—

(i) that the appointment is necessary and appropriate in order to carry out the provisions of the Act;

(ii) that the duties of the position to which the appointment is being made require outstanding experience and ability;

(iii) that the appointee has the outstanding experience and ability required by the position; and

(iv) that the department or agency head has been unable to obtain a person with the qualifications necessary for the position on a full-time, salaried basis.

(6) The heads of the departments or agencies making appointments under this subsection (b) shall file with the Division of the Federal Register for publication in the Federal Register a statement including the name of the appointee, the employing department or agency, the title of his position, and the name of his private employer, and the appointee shall file with such Division for publication in the Federal Register a statement listing the names of any corporations of which he is an officer or director or within 60 days preceding his appointment has been an officer or director, or in which he owns, or within 60 days preceding his appointment has owned, any stocks, bonds, or other financial interests and the names of any partnerships in which he is, or was within 60 days preceding his appointment, a partner, and the names of any other businesses in which he owns, or within such 60-day period has owned, any similar interest. At the end of each succeeding 6-month period the appointee shall file with such Division for publication in the Federal Register a statement showing any changes in such interests during such period.

(7) At least once every year the Chairman of the United States Civil Service Commission shall survey appointments made under this subsection and shall report his findings to the President and the Joint Committee on Defense Production and make such recommendations as he may deem proper.

(8) Persons appointed under the authority of this subsection may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment.

(c) The President is authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act, to employ experts and consultants or organizations thereof, as authorized by section 55a of title 5 of the United States Code. Individuals so employed may be compensated at rates not in excess of \$50 per diem and while away from their homes or regular places of business they may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence and other expenses while so employed. The President is authorized to provide by regulation for the exemption of such persons from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 99).²¹

(d) The President may utilize the services of Federal, State, and local agencies and may utilize and establish such regional, local, or other agencies and, utilize such voluntary and uncompensated services, as may from time to time be needed; and he is authorized to provide by regulation for the exemption of persons whose services are utilized under this subsection from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 99).²¹

(e) The President is further authorized to provide for the establishment and training of a nucleus executive reserve for employment in executive positions in Government during periods of er

gency. Members of this executive reserve who are not full-time Government employees may be allowed transportation and per diem in lieu of subsistence, in accordance with title 5 of the United States Code (with respect to individuals serving without pay, while away from their homes or regular places of business), for the purpose of participating in the executive reserve training program. The President is authorized to provide by regulation for the exemption of such persons who are not full-time Government employees from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 99).²¹

(f) Whoever, being an officer or employee of the United States or any department or agency thereof (including any Member of the Senate or House of Representatives), receives, by virtue of his office or employment, confidential information, and (1) uses such information in speculating directly or indirectly on any commodity exchange, or (2) discloses such information for the purpose of aiding any other person so to speculate, shall be fined not more than \$10,000 or imprisoned not more than one year, or both. As used in this section, the term "speculate" shall not include a legitimate hedging transaction, or a purchase or sale which is accompanied by actual delivery of the commodity.

(g) The President, when he deems such action necessary, may make provision for the printing and distribution of reports, in such number and in such manner as he deems appropriate, concerning the actions taken to carry out the objectives of this Act. (50 U.S.C. App. 2160)

SEC. 711. (a)(1) Except as provided in paragraph (2), there are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes of this Act (including sections 302 and 303 and for payment of interest under subsection (b) of this section, but excluding sections 305 and 306) by the President and such agencies as he may designate or create. Funds made available pursuant to this paragraph for the purposes of this Act may be allocated or transferred for any of the purposes of this Act, with the approval of the Bureau of the Budget, to any agency designated to assist in carrying out this Act. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available.

(2)(A) There are hereby authorized to be appropriated without fiscal year limitation not to exceed \$3,000,000,000 to carry out the provisions of section 305 until the date on which the authority of the President under such section ceases to be effective in accordance with section 305(k)(1). Subject to subparagraphs (B) and (C), all such funds shall remain available until expended.

(B) Such funds may be expended to carry out section 305 after such date only if such funds were obligated by the President before such date, or are required to be retained as a reserve against a contingent obligation incurred before such date.

(C) Any sums appropriated pursuant to this paragraph which have not been expended or obligated pursuant to subparagraph (B) as of the date determined under section 305(k)(1) or are not required to be retained as a reserve against a contingent obligation specified in subparagraph (B), shall be transferred to the Energy

²¹ See footnote on page 596.

Security Reserve and made available to the Secretary of the Treasury for the United States Synthetic Fuels Corporation pursuant to section 195 of the United States Synthetic Fuels Corporation Act of 1980.

(3) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of section 305(k)(2).²²

(b) Interest shall accrue on (1) the cumulative amount of disbursements to carry out the purposes of sections 302 and 303 (except for storage, maintenance, and other operating and administrative expenses), plus any unpaid accrued interest, less the cumulative amount of any funds received on transactions entered into pursuant to sections 302 and 303 and any net losses incurred by an agency in carrying out its functions under sections 302 and 303 when the head of the agency determines that such net losses have occurred; and (2) the current market value of the inventory of materials procured under section 303 as of the first day of each fiscal year commencing with the fiscal year beginning July 1, 1975. At the close of each fiscal year there shall be deposited into the Treasury as miscellaneous receipts, from any amounts appropriated under this section, an amount which the Secretary of the Treasury determines necessary to provide for the payment of any interest accrued and unpaid under this subsection. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with one year remaining to maturity. (50 U.S.C. App. 2161)²³

SEC. 712. (a) There is hereby established a joint congressional committee to be known as the Joint Committee on Defense Production (hereinafter referred to as the committee), to be composed of ten members as follows:

(1) Five members who are members of the Committee on Banking and Currency of the Senate, three from the majority and two from the minority party, to be appointed by the chairman of the committee; and

(2) Five members who are members of the Committee on Banking and Currency of the House of Representatives, three from the majority and two from the minority party, to be appointed by the chairman of the committee.

A vacancy in the membership of the committee shall be filled in the same manner as the original selection. The committee shall elect a chairman and a vice chairman from among its members, one of whom shall be a Member of the Senate and the other a Member of the House of Representatives.

(b) It shall be the function of the committee to make a continuous study of the programs and of the fairness to consumers of the prices authorized by this Act and to review the progress achieved in the execution and administration thereof. Upon request, the committee shall aid the standing committees of the Congress having legislative jurisdiction over any part of the programs authorized by this Act; and it shall make a report to the Senate and the House of Representatives, from time to time, concerning the re-

²² Section 711 (a)(2) and (a)(3) were added by Public Law 96-294, the Energy Security Act of June 30, 1980.

²³ Public Law 93-426, Sept. 30, 1974, section 3, 88 Stat. 1167, added subsection (b).

sults of its studies, together with such recommendations as it may deem desirable. Any department, official, or agency administering any of such programs shall, at the request of the committee, consult with the committee, from time to time, with respect to their activities under this Act.

(c) The committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such time and places, to require by subpoena (to be issued under the signature of the chairman or vice chairman of the committee) or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes shall apply in case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection.

(d) The committee is authorized to appoint and, without regard to the Classification Act of 1949, as amended, fix the compensation of such expert, consultants, technicians, and organizations thereof, and clerical and stenographic assistants as it deems necessary and advisable.

(e) The expenses of the committee under this section, which shall not exceed \$100,000 in any fiscal year, shall be paid from the contingent fund of the House of Representatives upon vouchers signed by the chairman or vice chairman.

(f) The Secretary of Commerce shall make a special investigation and study of the production, allocation, distribution, use of nickel, of its resale as scrap and of other aspects of the current situation with respect to supply and marketing of nickel, with particular attention to, among other things, the adequacy of the present system of nickel allocation between defense and civilian users. The Secretary of Commerce shall consult with the Joint Committee on Defense Production during the course of such investigation and study with respect to the progress achieved and the results of the investigation and study, and shall make an interim report on the results of the investigation and study on or before August 15, 1956, and shall, on or before December 31, 1956, make a final report on the results of such investigation and study, together with such recommendations as the Secretary of Commerce deems advisable. Such reports shall be made to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House of Representatives if the House is not in session). (50 U.S.C. App. 2162)

SEC. 713. The provisions of this Act shall be applicable to the United States, its Territories and possessions, and the District of Columbia. (50 U.S.C. App. 2163)

SEC. 714. [The Small Defense Plants Administration created by this section, added by the Defense Production Act amendments of 1951, was terminated at the close of July 31, 1953, and was succeeded by the Small Business Administration created under the Small Business Act of 1953. For purposes of section 301(a) of this Act, section 714(a)(1) defined a small-business concern as follows: “* * * a small-business concern shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation,” and provided that, “The Administration, in

making a detailed definition, may use these criteria, among others: independency of ownership and operation, number of employees, dollar volume of business, and nondominance in its field."']

SEC. 715. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. (50 U.S.C. App. 2164)

SEC. 716. That no person may be employed under this Act who engages in a strike against the Government of the United States or who is a member of an organization of Government employees that asserts the right to strike against the Government of the United States, or who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided*, That for the purposes hereof an affidavit shall be considered prima facie evidence that the person making the affidavit has not contrary to the provisions of this section engaged in a strike against the Government of the United States, is not a member of an organization of Government employees that asserts the right to strike against the Government of the United States or that such person does not advocate, and is not a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided further*, That any person who engages in a strike against the Government of the United States or who is a member of an organization of Government employees that asserts the right to strike against the Government of the United States, or who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence and accepts employment the salary or wages for which are paid from any appropriation or fund contained in this Act shall be guilty of a felony and, upon conviction, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penalty clause shall be in addition to, and not in substitution for, any other provisions of existing law. (50 U.S.C. App. 2165)

SEC. 717. (a) Title I (except section 104), title III, and title VII (except sections 708,²⁴ 714, and 719) of this Act, and all authority conferred thereunder shall terminate at the close of September 30, 1981: *Provided*, That all authority hereby or hereafter extended under title III of this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts. Section 714 of this Act, and all authority conferred thereunder, shall terminate at the close of July 31, 1953. Section 104, title II, and title VI of this Act, and all authority conferred thereunder shall terminate at the close of June 30, 1953. Title IV and V of this Act, and all authority conferred thereunder, shall terminate at the close of April 30, 1953.

(b) Notwithstanding the foregoing—

(1) The Congress by concurrent resolution or the President by proclamation may terminate this Act prior to the termination otherwise provided therefor.

²⁴ Authority of the President to approve certain voluntary agreements made permanent, May 18, 1971, by 85 Stat. 38.

(2) The Congress may also provide by concurrent resolution that any section of this Act and all authority conferred thereunder shall terminate prior to the termination otherwise provided therefor.

(3) Any agency created under this Act may be continued in existence for purposes of liquidation for not to exceed six months after the termination of the provision authorizing the creation of such agency.

(c) The termination of any section of this Act, or of any agency or corporation utilized under this Act, shall not affect the disbursement of funds under, or the carrying out of, any contract, guarantee, commitment or other obligation entered into pursuant to this Act prior to the date of such termination, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act, or the taking of any action (including the making of new guarantees) deemed by a guaranteeing agency to be necessary to accomplish the orderly liquidation, adjustment, or settlement of any loans guaranteed under this Act, including actions deemed necessary to avoid undue hardship to borrowers in reconverting to normal civilian production; and all of the authority granted to the President, guaranteeing agencies, and fiscal agents, under section 301 of this Act shall be applicable to actions taken pursuant to the authority contained in this subsection.

Notwithstanding any other provision of this Act, the termination of title VI or any section thereof shall not be construed as affecting any obligation, condition, liability, or restriction arising out of any agreement heretofore entered into pursuant to, or under the authority of, section 602 or section 605 of this Act, or any issuance thereunder, by any person or corporation and the Federal Government or any agency thereof relating to the provision of housing for defense workers or military personnel in an area designated as a critical defense housing area pursuant to law.

(d) No action for the recovery of any cooperative payment made to a cooperative association by a Market Administrator under an invalid provision of a milk marketing order issued by the Secretary of Agriculture pursuant to the Agricultural Marketing Agreement Act of 1937 shall be maintained unless such action is brought by producers specifically named as party plaintiffs to recover their respective share of such payments within ninety days after the date of enactment of the Defense Production Act Amendments of 1952 with respect to any cause of action heretofore accrued and not otherwise barred, or within ninety days after accrual with respect to future payments, and unless each claimant shall allege and prove (1) that he objected at the hearing to the provisions of the order under which such payments were made and (2) that he either refused to accept payments computed with such deduction or accepted them under protest to either the Secretary or the Administrator. The district courts of the United States shall have exclusive original jurisdiction of all such actions regardless of the amount involved. This subsection shall not apply to funds held in escrow pursuant to court order. Notwithstanding any other provision of this Act, no termination date shall be applicable to this subsection. (50 U.S.C. App. 2166)

DEFENSE PRODUCTION ACT OF 1950

§719

SEC. 718.²⁵ The Comptroller General, in cooperation with the Secretary of Defense and the Director of the Bureau of the Budget, shall undertake a study to determine the feasibility of applying uniform cost accounting standards to be used in all negotiated prime contract and subcontract defense procurements of \$100,000 or more. In carrying out such study the Comptroller General shall consult with representatives of the accounting profession and with representatives of that segment of American industry which is actively engaged in defense contracting. The results of such study shall be reported to the Committees on Banking and Currency and the Committees on Armed Services of the Senate and House of Representatives at the earliest practicable date, but in no event later than eighteen months after the date of enactment of this section. (50 U.S.C. App. 2167)

COST-ACCOUNTING STANDARDS BOARD

SEC. 719.²⁶ (a) There is established, as an agent of the Congress, a Cost-Accounting Standards Board which shall be independent of the executive departments and shall consist of the Comptroller General of the United States who shall serve as Chairman of the Board and four members to be appointed by the Comptroller General. Of the members appointed to the Board, two, of whom one shall be particularly knowledgeable about the cost accounting problems of small business, shall be from the accounting profession, one shall be representative of industry, and one shall be from a department or agency of the Federal Government who shall be appointed with the consent of the head of the department or agency concerned. The term of office of each of the appointed members of the Board shall be four years, except that any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed. Each member of the Board appointed from private life shall receive compensation at the rate of one two-hundred-sixtieth of the rate prescribed for level IV of the Federal Executive Salary Schedule for each day (including traveltime) in which he is engaged in the actual performance of duties vested in the Board.

(b) The Board shall have the power to appoint, fix the compensation of, and remove an executive secretary and two additional staff members without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United States Code, and those provisions of such title relating to appointment in the competitive service. The executive secretary and the two additional staff members may be paid compensation at rates not to exceed the rates prescribed for levels IV and V of the Federal Executive Salary Schedule, respectively.

(c) The Board is authorized to appoint and fix the compensation of such other personnel as the Board deems necessary to carry out its functions.

(d) The Board may utilize personnel from the Federal Government (with the consent of the head of the agency concerned) or appoint personnel from private life without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United

²⁵ Section 718 added by Public Law 90-370, July 1, 1968, 82 Stat. 279.

²⁶ Section 719 added by Public Law 91-379, August 15, 1970, 84 Stat. 796.

States Code, and those provisions of such title relating to appointment in the competitive service, to serve on advisory committees and task forces to assist the Board in carrying out its functions and responsibilities under this section.

(e) Except as otherwise provided in subsection (a), members of the Board and officers or employees of other agencies of the Federal Government utilized under this section shall receive no compensation for their services as such but shall continue to receive the compensation of their regular positions. Appointees under subsection (d) from private life shall receive compensation at rates fixed by the Board, not to exceed one two-hundred-sixtieth of the rate prescribed for level V in the Federal Executive Salary Schedule for each day (including traveltime) in which they are engaged in the actual performance of their duties as prescribed by the Board. While serving away from their homes or regular place of business, Board members and other appointees serving on an intermittent basis under this section shall be allowed travel expenses in accordance with section 5703 of title 5, United States Code.

(f) All departments and agencies of the Government are authorized to cooperate with the Board and to furnish information, appropriate personnel with or without reimbursement, and such financial and other assistance as may be agreed to between the Board and the department or agency concerned.

(g) The Board shall from time to time promulgate cost-accounting standards designed to achieve uniformity and consistency in the cost-accounting principles followed by defense contractors and subcontractors under Federal contracts. Such promulgated standards shall be used by all relevant Federal agencies and by defense contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing, administration, and settlement of all negotiated prime contract and subcontract national defense procurements with the United States in excess of \$100,000, other than contracts or subcontracts where the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. In promulgating such standards and major rules and regulations for the implementation of such standards, the Board shall take into account, and shall report to the Congress in the transmittal required by section 719(h)(3) of this Act, the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits, including advantages and improvements in the pricing, administration, and settlement of contracts.²⁷

(h)(1) The Board is authorized to make, promulgate, amend, and rescind rules and regulations for the implementation of cost-accounting standards promulgated under subsection (g). Such regulations shall require defense contractors and subcontractors as a condition of contracting to disclose in writing their cost-accounting

²⁷ Public Law 95-152 of December 16, 1975, section 7, 89 Stat. 820, amended the last sentence of section 719(g), which previously read "In promulgating such standards the Board shall take into account the probable costs of implementation compared to the probable benefits."

(A typographical error in Public Law 95-152 referenced the amendment to section 717(g). There is no subsection (g) in section 717 (50 U.S.C. App. 2166, Termination of Act). The amendment as originally introduced in the House on November 14, 1975, and as revised by the Committee on the Conference on November 17, 1975, specifically cited its applicability to section 719 (Congressional Record, vol. 121, November 14, 1975: H11207.)

principles, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs, and to agree to a contract price adjustment, with interest, for any increased costs paid to the defense contractor by the United States because of the defense contractor's failure to comply with duly promulgated cost-accounting standards or to follow consistently his disclosed cost-accounting practices in pricing contract proposals and in accumulating and reporting contract performance cost data. Such interest shall not exceed 7 per centum per annum measured from the time such payments were made to the contractor or subcontractor to the time such price adjustment is effected. If the parties fail to agree as to whether the defense contractor or subcontractor has complied with cost-accounting standards, the rules and regulations relating thereto, and cost adjustments demanded by the United States, such disagreement will constitute a dispute under the contract dispute clause.

(2) The Board is authorized, as soon as practicable after the date of enactment of this section, to prescribe rules and regulations exempting from the requirements of this section such classes or categories of defense contractors or subcontractors under contracts negotiated in connection with national defense procurements as it determines, on the basis of the size of the contracts involved or otherwise, are appropriate and consistent with the purposes sought to be achieved by this section.

(3) Cost-accounting standards promulgated under subsection (g) and rules and regulations prescribed under this subsection shall take effect not earlier than the expiration of the first period of sixty calendar days of continuous session of the Congress following the date on which a copy of the proposed standards, rules, or regulations is transmitted to the Congress; if, between the date of transmittal and the expiration of such sixty-day period, there is not passed by the two Houses a concurrent resolution stating in substance that the Congress does not favor the proposed standards, rules, or regulations. For the purposes of this subparagraph, in the computation of the sixty-day period there shall be excluded the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die. The provisions of this paragraph do not apply to modifications of cost accounting standards, rules, or regulations which have become effective in conformity with those provisions.

(i)(A) Prior to the promulgation under this section of rules, regulations, cost-accounting standards, and modifications thereof, notice of the action proposed to be taken, including a description of the terms and substance thereof, shall be published in the Federal Register. All parties affected thereby shall be afforded a period of not less than thirty days after such publication in which to submit their views and comments with respect to the action proposed to be taken. After full consideration of the views and comments so submitted the Board may promulgate rules, regulations, cost-accounting standards, and modifications thereof which shall have the force and effect of law and shall become effective not later than the start of the second fiscal quarter beginning after the expiration not less than thirty days after publication in the Federal Register.

(B) The functions exercised under this section are excluded from the operation of sections 551, 553-559, and 701-706 of title 5, United States Code.

(C) The provisions of paragraph (A) of this subsection shall not be applicable to rules and regulations prescribed by the Board pursuant to subsection (h)(2).

(j) For the purpose of determining whether a defense contractor or subcontractor has complied with duly promulgated cost-accounting standards and has followed consistently his disclosed cost-accounting practices, any authorized representative of the head of the agency concerned, of the Board, or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost-accounting standards and principles.

(k) The Board shall report to the Congress, not later than twenty-four months after the date of enactment of this section, concerning its progress in promulgating cost-accounting standards under subsection (g) and rules and regulations under subsection (h). Thereafter, the Board shall make an annual report to the Congress with respect to its activities and operations, together with such recommendations as it deems appropriate.

(l) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. (50 U.S.C. App. 2168)

NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

SEC. 720.²⁸ (a) **SHORT TITLE.**—This section may be cited as the “National Commission on Supplies and Shortages Act of 1974”.

(b) **FINDINGS.**—(1) The United States is increasingly dependent on the importation from foreign nations of certain natural resources vital to commerce and the national defense.

(2) Nations that export such resources can alone or in association with other nations arbitrarily raise the prices of such resources to levels which are unreasonable and disruptive of domestic and foreign economies.

(3) Shortages of resources and commodities are becoming increasingly frequent in the United States, and such shortages cause undue inconvenience and expense to consumers and a burden on interstate commerce and the Nation's economy.

(4) Existing institutions do not adequately identify and anticipate such shortages and do not adequately monitor, study, and analyze other market adversities involving specific industries and specific sectors of the economy.

(5) Data with respect to such shortages and adversities is collected in various agencies of the Government for various purposes, but is not systematically coordinated and disseminated to the appropriate agencies and to the Congress.

(c) **PURPOSES.**—It is the purpose of this Act to establish a national commission to facilitate more effective and informed responses to resource and commodity shortages and to report to the President and the Congress on needed institutional adjustments for examin-

²⁸ Section 720 added by Public Law 93-426, September 30, 1974, section 5, 88 Stat. 1167.

ing and predicting shortages and on the existence or possibility of shortages with respect to essential resources and commodities.

(d) **ESTABLISHMENT OF COMMISSION.**—There is established as an independent instrumentality of the Federal Government a National Commission on Supplies and Shortages (hereinafter referred to as the "Commission"). The Commission shall be comprised of thirteen members selected for such period of time as such Commission shall continue in existence (except that any individual appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term) as follows:

(1) The President, in consultation with the majority and minority leaders of the Senate and the majority and minority leaders of the House of Representatives, shall appoint five members of the Commission from among persons in private life;

(2) The President shall designate four senior officials of the executive branch to serve without additional compensation, and may appoint additional nonvoting ex officio members from agencies having jurisdiction over areas being considered by the Commission;²⁹

(3) The President of the Senate, after consultation with the majority and minority leaders of the Senate, shall appoint two Senators to be members of the Commission and the Speaker of the House of Representatives, after consultation with the majority and minority leaders of the House of Representatives, shall appoint two Representatives to be members of the Commission to serve without additional compensation.

(e) **CHAIRMAN AND VICE CHAIRMAN.**—The President, in consultation with the majority and minority leaders of the Senate and the House of Representatives shall designate a Chairman and Vice Chairman of the Commission.

(f) **COMPENSATION.**—Each member of the Commission appointed pursuant to subsection (d)(1) of this section shall be entitled to be compensated at a rate equal to the per diem equivalent of the rate for an individual occupying a position under level III of the Executive Schedule under section 5314 of title 5, United States Code, when engaged in the actual performance of duties as such a member, and all members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(g) **FUNCTIONS OF THE COMMISSION.**—It shall be the function of the Commission to make reports to the President and to the Congress with respect to—

(1) the existence or possibility of any long- or short-term shortages; employment, price or business practices; or market adversities affecting the supply of any natural resources, raw agriculture commodities, materials, manufactured products (including any possible impairment of productive capacity which may result from shortages in materials, resources, commodities, manufactured products, plant or equipment, or capital in-

²⁹ Section 720(d)(2) was amended by Public Law 94-72, August 5, 1975, 89 Stat. 399, to give the President authority to appoint additional non-voting ex-officio members.

vestment, and the causes of such shortages, practices, or adversities);

(2) the adverse impact or possible adverse impact of such shortages, practices, or adversities upon consumers, in terms of price and lack of availability of desired goods;

(3) the need for, and the assessment of, alternative actions necessary to increase the availability of the items referred to in paragraph (1) of this subsection, to correct the adversity or practice affecting the availability of any such items, or otherwise to mitigate the adverse impact or possible adverse impact of shortages, practices, or adversities upon consumers referred to in paragraph (2) of this subsection;

(4) existing policies and practices of Government which may tend to affect the supply of natural resources and other commodities;

(5) necessary legislative and administrative actions to develop a comprehensive strategic and economic stockpiling and inventories policies which facilitates the availability of essential resources;

(6) the means by which information with respect to paragraphs (1), (2), (3), (4) of this subsection can be most effectively and economically gathered and coordinated.

(h) **REPORTS OF THE COMMISSION.**—The Commission shall report not later than December 31, 1976,³⁰ to the President and the Congress on specific recommendations with respect to institutional adjustments, including the advisability of establishing an independent agency to provide for a comprehensive data collection and storage system, to aid in examination and analysis of the supplies and shortages in the economy of the United States and in relation to the rest of the world. The Commission may, until March 31, 1977,³⁰ prepare, publish and transmit to the President and the Congress such other reports and recommendations as it deems appropriate.

(i) **ADVISORY COMMITTEE.**—(1) The Commission is authorized to establish such advisory committees as may be necessary or appropriate to carry out any specific analytical or investigative undertakings on behalf of the Commission. Any such committee shall be subject to the relevant provisions of the Federal Advisory Committee Act.

(2) The Commission shall establish an advisory committee to develop recommendations as to the establishment of a policy making process and structure within the executive and legislative branches of the Federal Government as a means to integrate the study of supplies and shortages of resources and commodities into the total problem of balanced national growth and development, and a system for coordinating these efforts with appropriate multi-State, regional and State governmental jurisdictions. For the purpose of carrying out the provision of this paragraph there is authorized to be appropriated not to exceed \$150,000 to remain available until March 31, 1977.³⁰

³⁰ Dates and funding authorized by Public Law 94-152, December 16, 1975, section 8, 89 Stat. 820.

(j) **STAFF AND POWERS OF THE COMMISSION.**—(1) Subject to such rules and regulations as it may adopt, the Commission, through its Chairman, shall—

(A) appoint and fix the compensation of an Executive Director at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code, and such additional staff personnel as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and the General Schedule under section 5332 of such title; and

(B) be authorized to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(2) The Commission or any subcommittee thereof is authorized to hold hearings and to sit and act at such times and places, as it may deem advisable.

(3) The Commission is authorized to contract with public or private agencies, institutions, corporations, and other organizations.³¹

(k) **ASSISTANCE OF GOVERNMENT AGENCIES.**—Each department, agency, and instrumentality of the Federal Government, including the Congress, consistent with the Constitution of the United States, and independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman, such data, reports, and other information as the Commission deems necessary to carry out its functions under this Act.

(l) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Commission not to exceed \$1,484,000 to remain available until March 31, 1977, to carry out the provisions of this Act. (50 U.S.C. App. 2169)³²

³¹ Paragraph (3) of section 720(j) was added by Public Law 94-152, December 16, 1975, section 8, 89 Stat. 821.

³² Authorized by Public Law 94-152, December 16, 1975, section 8, 89 Stat. 821.

DEFENSE PRODUCTION ACT OF 1950

LEGISLATION AMENDING OR EXTENDING THE DEFENSE PRODUCTION
ACT OF 1950

Public Law 69, 82d Congress, Joint Resolution of June 30, 1951, 65 Stat. 110.

Public Law 96, 82d Congress, amendments of July 31, 1951, 65 Stat. 131.

Public Law 139, 82d Congress, Defense Housing and Communities Facilities and Services Act of September 1, 1951, sec. 602, 65 Stat. 313.

Public Law 429, 82d Congress, amendments of June 30, 1952, 66 Stat. 296.

Public Law 95, 83d Congress, amendments of June 30, 1953, 67 Stat. 129.

Public Law 94, 84th Congress, Federal Employees Salary Increase Act of June 28, 1955, sec. 12(c)(1), 69 Stat. 180.

Public Law 119, 84th Congress, Joint Resolution of June 30, 1955, 69 Stat. 225.

Public Law 295, 84th Congress, amendments of August 9, 1955, 69 Stat. 580.

Public Law 632, 84th Congress, amendments of June 29, 1956, 70 Stat. 408.

Public Law 85-471, extension of June 28, 1958, 72 Stat. 241.

Public Law 86-560, amendment of June 30, 1960, 74 Stat. 282.

Public Law 87-305, Small Business Act Amendments of September 26, 1961, sec. 5(b), 75 Stat. 667.

Public Law 87-505, extension of June 28, 1962, 76 Stat. 112.

Public Law 88-343, amendments of June 30, 1964, 78 Stat. 235.

Public Law 89-482, amendment of June 30, 1966, 80 Stat. 235.

Public Law 90-370, amendments of July 1, 1968, 82 Stat. 279.

Public Law 91-151, act of December 23, 1969, title I, sec. 9, 83 Stat. 376.

Public Law 91-300, Joint Resolution of June 30, 1970, 84 Stat. 367.

Public Law 91-371, Joint Resolution of August 1, 1970, 84 Stat. 694.

Public Law 91-379, amendments of August 15, 1970, 84 Stat. 796.

Public Law 91-452, Organized Crime Control Act of October 15, 1970, title II, sec. 251, 84 Stat. 931.

Public Law 92-325, amendment of June 30, 1972, 86 Stat. 390.

Public Law 93-155, Fiscal Year 1974 Department of Defense Appropriation Authorization Act of November 16, 1973, title VIII, sec. 807(b), 87 Stat. 615.

Public Law 93-323, Joint Resolution of June 30, 1974, 88 Stat. 280.

Public Law 93-367, Joint Resolution of August 7, 1974, 88 Stat. 419.

Public Law 93-426, amendments of September 30, 1974, 88 Stat. 1166.

Public Law 94-9, Joint Resolution of March 21, 1975, 89 Stat. 15.

Public Law 94-42, Joint Resolution of June 28, 1975, 89 Stat. 232.

Public Law 94-72, Joint Resolution of August 5, 1975, 89 Stat. 79.

Public Law 94-100, Joint Resolution of October 1, 1975, 89 Stat. 1.

DEFENSE PRODUCTION ACT OF 1950

Public Law 94-152, amendments of December 16, 1975, 89 Stat. 810.

Public Law 94-153, retroactive extension of December 16, 1975, 89 Stat. 822.

Public Law 94-163, Energy Policy and Conservation Act of December 22, 1975, 89 Stat. 871.

Public Law 94-220, Joint Resolution amending effective date of certain provisions of the Defense Production Act Amendments of 1975, February 27, 1976, 90 Stat. 195.

Public Law 94-273, Fiscal Year Adjustment Act, April 21, 1976, 90 Stat. 376.

Public Law 95-37, Extension of the Defense Production Act, June 1, 1977, 91 Stat. 178.

Public Law 96-41, Strategic and Critical Materials Stock Piling Revision Act of 1979, July 30, 1979, 93 Stat. 319.

Public Law 96-77, Extension of the Defense Production Act of 1950, September 29, 1979, 93 Stat. 588.

Public Law 96-188, Extension of the Defense Production Act of 1950, January 28, 1980, 94 Stat. 3.

Public Law 96-225, Extension of the Defense Production Act of 1950, April 3, 1980, 94 Stat. 310.

Public Law 96-250, Extension of the Defense Production Act of 1950, May 26, 1980, 94 Stat. 371.

Public Law 96-294, Energy Security Act, June 30, 1980, 94 Stat. 611.



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